

SOME PROPOSALS FOR CONSTITUTIONAL REFORM

Being the Recommendations of a
Group of Conservatives

1946

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P R E F A C E

This Report has been drawn up by a Group of Conservatives working on their own responsibility. It was completed before the General Election but its publication was held up owing to shortage of paper.

The Report remains as it was originally printed except for certain changes which are considered necessary in order to draw attention to recent constitutional developments.

The recommendations and suggestions made by the Group are based on the assumption that there will be no revolutionary change in the Constitution, and that alterations in the machinery of government and in the procedure of Parliament will be carried out by traditional and orderly methods in order to meet new conditions and changing circumstances.

The views which the Report contains on economic matters are not intended to restrict the sphere of private enterprise or to establish machinery for the permanent control of industry by the State. They are designed to encourage closer collaboration between the Government and industry in the framing of policy and to ensure that if, for one reason or another, government intervention may become advisable there should be effective machinery for consultation between the particular industry and the department concerned.

The Group wish to thank the Marquess of Salisbury and Lord Hankey who were kind enough to give their advice on certain matters dealt with in the Report, but neither of these gentlemen is in any way responsible for the recommendations which are made.

The Group would also like to thank Miss A. Readman, B.A., Research Assistant, Nuffield College, Oxford, and Miss D. G. Gray, O.B.E., M.A., St. Hugh's College, Oxford, for their valuable help in the preparation of the Report.

The Group from whose discussions these proposals have emerged was composed as follows:

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The late EARL OF ONSLOW and the late EARL OF PLYMOUTH were also members of the Group, and closely associated with their work, which extended over a period of two years.

While the members of the Group are in general agreement with the recommendations and suggestions contained in the Report, this does not imply that each member of the Group is necessarily in complete agreement with every recommendation.

February, 1946.

CUTHBERT HEADLAM.

PART ONE

"We are an ancient commonwealth, living and wishing to live at peace within our own habitations." WINSTON CHURCHILL, 1945.

I. INTRODUCTORY

We are agreed that the problems of government by which this country is faced to-day can be solved within the framework of the existing Constitution. Although fully aware that there is much uneasiness concerning the machinery of government, we are convinced that the nation is in favour of retaining its parliamentary institutions. [The most marked political characteristic of our age is the demand for strong leadership, for a clear and constructive aim in peace no less than in war. Seldom has there been a more active spirit of criticism, a more vigorous insistence that social discontent be remedied by political action, a more impatient rejection of complacency in the face of public ills. No Government in this country can have energy and creative force, unless it is closely in touch with popular demands and firmly rooted in popular consent.

None the less it would be idle to deny that the efficacy of our established institutions and traditional forms of government has in recent years been seriously called in question. The main cause for this lack of confidence was probably the belief that British Governments between 1919 and 1939 failed correctly to appreciate, and effectively to meet, the foreign dangers and domestic difficulties by which we were beset. Such criticism is not without foundation. The natural revulsion of a tolerant and peace-loving people against the evils of international anarchy and competitive armaments proved a deterrent rather than a stimulus to the pursuit of a strong and realistic foreign policy. Ministers faced by an increasingly dangerous international situation found it necessary to talk in terms of "collective security" and "disarmament by agreement" long after the evidence of facts had proved the futility of either as a means of maintaining peace. It was feared that an open and resolute policy of rearmament, which alone could have made a League policy effective, might bring to power the very politicians who had most vigorously opposed any increase in defence measures. Ministers preferred to temporize and so laid themselves open to the charge of weakness and insincerity.

In the handling of our own domestic problems also, there was an apparent lack of clarity and decision. The fact that our misfortunes were due, at least in part, to international causes which it was beyond the power of any one Government to control did not reconcile the ordinary citizen to the consequences of economic dislocation.

The nation is in no mood to tolerate again the sense of frustration, the waste of human capacity and material wealth which resulted from prolonged and often widespread unemployment. Once more men have come to believe that a better world can be built upon the ruins of the old; once more there has been a revival of faith in the virtue of democracy, but there is grave misgiving lest the institutions of government may prove inadequate for the tasks which lie ahead.

These criticisms are formidable. But it does not necessarily follow that the constitutional system can be held responsible for the shortcomings of statesmen. During the course of our investigations we have attempted to distinguish the constitutional from the other causes of failure. Our aim has been not merely to devise specific safeguards against the repetition of past errors but to strengthen the constitutional machinery as a whole. We have, above all, sought means to encourage public confidence in the efficiency of Parliament and the ability of its members. Only if such a sense of confidence is firmly established can the Cabinet be expected to promote, and Parliament to endorse, policies which make great demands upon the nation and are based upon an unflinching recognition of the difficulties with which we have to contend.

In the first part of our Report we discuss some of the problems of democratic government in relation to the present structure of society. In this and in other sections, we consider the position of organized groups within the State and discuss the effect of organized propaganda on the conduct of policy. We have thought it necessary before making recommendations for reform to analyse the main principles on which the British parliamentary system is based. We point out the sources of strength which have enabled it, in contrast to so many continental constitutions to survive the mistakes and misfortunes of the past; and we draw attention to the dangers which may result if the full implications of Cabinet responsibility are neglected through the unwillingness of Ministers to risk defeat, when the policies which they consider necessary in the national interest run counter to the prevailing temper of public opinion, or are opposed by powerful sectional interests among their own supporters.

We then turn to a separate consideration of the different institutions of government. We have stated in some detail our reasons for opposing any change in the existing system of election for the House of Commons. Our first concern has been to find means of encouraging the best choice of parliamentary candidates and of reducing the financial difficulties which now stand in the way of those who wish to enter the House of Commons. We make no proposals to alter the constitutional powers of the House of Lords. But we recommend changes in the composition of the Upper House intended to secure a fairer distribution of political opinion and a wider representation of men and women who have proved their capacity in different branches

of public life. These proposals, if carried into effect would, we believe, do much to increase the efficiency of Parliament as a whole. They would enable the House of Lords to play a more active part in legislation—especially in matters which are not politically contentious—and so to relieve the pressure of business in the House of Commons.

In dealing with the Executive we propose machinery for a more rational and effective co-ordination of policy and administration between departments. Reform on these lines should make possible smaller Cabinets and it should also ensure the more rapid and efficient working of the administrative machine. We make suggestions also in regard to the organization, recruitment and training of the Civil Service.

In the last part of our Report we discuss the interaction of the different organs of government. Our proposals for reform in the procedure of Parliament are intended to secure more effective control of the Executive and also to enable private members to play a more constructive part in the framing of policy. With two subjects, defence and economic policy, we have dealt in detail. We have sought to discover constitutional methods for diminishing distrust between Government and Opposition in vital matters of national security, and we have examined the means by which expert knowledge and experience can be used to their best effect in the pursuit of economic prosperity.

It was not within the limits we set ourselves to discuss the whole question of imperial relations. But our proposals in so far as they affect foreign affairs, defence and economic policy should facilitate close consultation with the other Governments of the Empire, and prevent divergence of aim between domestic interests and imperial obligations.

II. SOME PROBLEMS OF DEMOCRACY

The most serious challenge to our established institutions comes from Socialist thinkers of the Marxian school who assert that the existing social and economic system is incompatible with democracy. Parliamentary government, they maintain, was a product of nineteenth century individualism. It worked well only when political power was in the hands of the privileged class which exercised effective control over the economic resources of the nation. Liberal and Conservative Governments could alternate without revolutionary disturbance only because both great parties in the State represented the same economic interests and because both were agreed on a policy of *laissez faire*. The full extension of the franchise and the growth of the Labour Party has, they assert, led to an entirely new situation. Between Conservatives and Socialists there is an unbridgeable gulf, a fundamental conflict of material interests; Conservatives represent the interests of

a decaying capitalism; Socialists are determined to storm the citadel of economic power and social privilege. The Conservative Party, we are told, will adopt a policy of pseudo-planning at the instigation of industrial monopolists whose only concern is to restrict output in order to maintain their own profits. The Socialist Party will seek to abolish the profit-making motive which is at the root of capitalist society and to gain control of the instruments of production in the interests of the community. Between such conflicting aims there can be no compromise. The ends of Socialism, they insist, can be attained only by economic, social and constitutional changes which are so revolutionary in effect, that once the process has begun it will be impossible to turn back.¹

Such an analysis is crude and superficial. The common ground between the moderate progressive elements in both political parties extends far beyond the immediate necessities of war which made it possible for their leaders to unite in pursuit of a single purpose. Men who disagreed on every fundamental issue of domestic policy could not have worked together with the mutual loyalty and confidence which the Coalition Government maintained through all vicissitudes. The present Prime Minister has claimed that his Party is no longer a "class party", but that it "represents all the main streams which flow into the great river of our national life". Socialist Ministers have repeatedly stressed the need for continuity in foreign affairs, and many of their proposals for reconstruction are based on plans already prepared by the Coalition Government. On other matters there are serious differences, but provided that this promise of moderation is fulfilled, they need not necessarily be more fundamental than those by which political parties were divided in the past.

The changes in the structure of society which have taken place in this country during the past century are in themselves favourable to the success of representative democracy. That they have not, as yet, produced a "revolutionary situation" is in fact admitted by the modern exponents of the Marxian theory. The "proletariat" has not

¹See Harold J. Laski, "Democracy in Crisis", George Allen and Unwin, 1933, e.g., page 87: "I believe, therefore, that the attainment of power by the Labour Party in the normal electoral fashion must result in a radical transformation of parliamentary government. Such an administration could not, if it sought to be effective, accept the present forms of its procedure. It would have to take vast powers, and legislate under them by ordinance and decree; it would have to suspend the classic formulæ of normal opposition. If its policy met with peaceful acceptance, the continuance of parliamentary government would depend upon the possession of guarantees from the Conservative Party that its work of transformation would not be disrupted by repeal in the event of its defeat at the polls. Could such guarantees be given? Would they be implemented if they were? . . . I suggest that their exaction is part of the price of peace when such great issues are in dispute."

See also Laski, "Reflections on the Revolution of Our Time", 1943, pages 303, et seq., e.g., "It raises the issue whether the success of parliamentary government in Britain is not the outcome of special historical circumstances which represent a comparatively brief period in British history, unique in their character, and unlikely to be repeated."

been subjected to a condition of "increasing misery", either absolutely or relatively to other classes. The *petite bourgeoisie* has not dwindled in numbers and its individual members have not been pushed down into the working class. An increasing number of manual workers have achieved a standard of living comparable to that of the *petite bourgeoisie*. The decline in the number of small independent producers has been accompanied by a steady increase in the number of salaried officials and managers. The ownership of capital is not concentrated in the hands of a few large capitalists but has become more widely distributed among all classes. The number of people engaged in the provision of public services has increased, but it does not necessarily follow that a manual worker, or a manager or technician, considers himself more "exploited" or less socially useful, because he is employed by a joint stock company and not by a local authority or a public utility body. Society has become more varied and more complex and class divisions are less sharply drawn.¹ The attempt to divide humanity into two hostile camps, the discontented challenging "proletariat" on the one hand, and, on the other, the capitalist financiers and *entrepreneurs*, seeking to bolster up their position by winning the support of the *bourgeois rentier*, is utterly unrealistic.

None the less the left-wing Socialist intellectuals are too deeply steeped in the Marxian method of thought entirely to rid themselves of the belief that progress can be achieved only by revolution, and that violence and force are necessary instruments for the attainment of a higher standard of human happiness and welfare. This is no less true because they seek to throw the odium of the first resort to force on to the supporters of the "counter revolution". By constantly insisting on the inability of parliamentary government to solve by agreement the social and economic problems of the community, they have done ill service to the cause of democracy which they profess to uphold. Turning from the unprofitable analysis of social classes, they argue that these mitigating circumstances can only postpone the inevitable clash. Capitalism, they maintain, will founder on its own "inherent contradictions". A period of recurrent economic crisis and industrial depression will in time undermine the standard of living of the workers. A decaying economic system can survive only in times of prosperity; Capitalism can no longer make full and effective use of the means of production; a capitalist society can organize for scarcity and restriction of output but not for plenty.²

¹These conclusions are supported by the results of recent statistical research; statistical methods should, however, be used with caution in such matters, since they can lead only to tentative conclusions.

²See Carr-Saunders and Carodog Jones, "Social Structure of England and Wales", 2nd Edit., 1937. But Laski, writing in 1942, maintains that after the war, "the abyss to be bridged between classes will be wider than at any time since the Chartist movement"—"Reflections on the Revolution of Our Time," page 273.

²See G. D. H. Cole, "What Karl Marx Really Meant". Gollancz, 1934.

This line of argument presupposes that the causes of economic dislocation are inherent in the existing social system. It assumes that if the Conservatives are in office they will refuse to apply the appropriate remedies because they run counter to their own material interests; and that if the Socialists are in office, their efforts will be frustrated by deliberate obstruction and "sabotage" on the part of the Opposition. In fact "Capitalism" is no rigid system. Employers and workers in industry and agriculture are not incapable of adjusting themselves to changing conditions of production and trade, and Governments are not precluded by prejudice or incompetence from adapting their financial and economic policies to the needs of a new situation. The measures necessary to secure economic prosperity and stability do not require a social revolution, but they do require a degree of common effort in face of serious international difficulties, which will be unattainable if violent internal dissensions are fomented by an extremist minority.

Parliamentary government has been successful in this country because each party when in power has pursued a national policy and has not looked upon itself as representing only that section of the population by which it was elected. Such a conception of government is, of course incompatible with the theory of class conflict. The British Constitution presupposes a society which is fundamentally at one with itself. It should be our aim in the future to achieve a still greater degree of social solidarity. But this will prove impossible if the supporters of one of the main political parties in the State are led to believe that their opponents are incapable of any disinterested motive and if every economic difficulty is seized upon as evidence that the breakdown of the social and political system is at hand.

This is not to deny the reality of conflicting economic interests. The position today is not that the nation is divided by irreconcilable class antagonism. The danger consists rather in the possibility that, within the great political parties, organized economic groups may come to play a preponderant part at the expense of the ordinary elector, and that economic policy may be decided not by the representatives of the people in the House of Commons but by the influence of sectional groups—employers on the one hand and Trade Unions on the other. There are those who believe that the policies of political parties are not in fact determined by the opinions of the rank and file of the electors whom they purport to represent, but by those organized minorities which supply the bulk of the party funds.

These fears are, we think, exaggerated. A great political party should protect the interests of the "unorganized majority", whilst at the same time taking into account the claims of organized professional groups. It is in every way legitimate that these claims should be voiced provided that Members of the House of Commons remain sufficiently

independent to base their decisions on a wider conception of national interests.

Despite popular prejudice, the danger of extra-parliamentary interference is probably greater in the Labour Party than in the Conservative Party. Individuals who contribute to Conservative Party funds are not in a position to dictate policy to a Conservative Prime Minister; the interests which they sponsor may exercise considerable influence, but they can be overridden. Money is a less potent political weapon than organization. The leader of a Socialist Government may well find himself in a difficult position since he is bound to consult and to take into account the views of two strongly organized bodies—the Labour Party Conference, acting through its Executive Committee on the one hand, and the Trades Union Congress on the other. His task is made no easier by the fact that the Labour Party Conference, in common with most party organizations, tends to represent the views of the more extreme and uncompromising members of the party, whilst the T.U.C. is mainly concerned to secure an immediate improvement in the material well being of its members. The Conservative Party has suffered much from lack of sufficient organization, and it is essential, in its own interests, that it should put its financial house in order. But it is a supreme advantage that the leaders of the Conservative Party, when in office, are free to act as national leaders and are not bound to submit their decisions to the approval of a party conference.

The rule of the majority which is the foundation of all democracy can only be maintained if the ordinary citizen is prepared to recognize that the function of government is not to serve the interests of a particular class or section of the community, but to bring about a reconciliation of conflicting interests. It will only be successful if the Government is strong enough to pursue this end by resisting, when necessary, the pressure of organized groups, whether such pressure come from the right or from the left.

We are much concerned by the influence which political propaganda now has on an electorate, the majority of whom are necessarily inexperienced and often ill-informed on the issues which come before them. We are impressed also by the fact that during recent years, Members of Parliament, apart from Ministers in Office, have played a comparatively small part in the formation of public opinion outside their own constituencies. This we believe is due less to the inadequacy of Members of Parliament than to the preference of the Press and the B.B.C. for their own "experts". The number of private members who are invited to broadcast is small and when reports of parliamentary debates are given on the wireless and in the Press, a quite disproportionate amount of time or space is often allotted to those who by the extravagance of their views can claim a sensational "news value".

There are indications that the B.B.C. is not entirely unaware of the real interest which a considerable and, we believe, a growing section of the public, now takes in parliamentary affairs. But the time given to the reports of parliamentary debates is still too short. We would urge the importance of including in the national programme a full and balanced account of the proceedings of Parliament.

In home affairs the effects of propaganda and deliberate sensationalism are perhaps less serious than in foreign affairs. It is not easy to mislead people on matters which fall within their own experience and, provided that freedom of the Press and public discussion is maintained, any important misrepresentation of facts will sooner or later be corrected.

In foreign affairs the position is far more difficult. The conduct of foreign policy in modern times depends to an increasing extent upon internal conditions in other countries. It follows that those who support or oppose a particular line of policy will endorse their views by criticism or approbation of the social, political and economic conditions of other nations. When an internal crisis occurs in some foreign country, every instrument of propaganda is used in this country to stir up violent popular partisanship for or against foreign statesmen or military leaders who, until events brought them into prominence, may have been unknown, even by name, to the majority of those who take part in the agitation. The ordinary citizen is at a grave disadvantage in testing the accuracy of the information which is handed out to him with such assurance in wireless talks and newspaper articles.

It will be impossible for this country in the future to pursue a firm and consistent foreign policy, and to play her part in the rebuilding of a just and peaceful international system, if every difficulty or disturbance in a foreign country is made the occasion for violent party conflict at home.

In a later section of this Report we emphasize the importance for the conduct of foreign policy of securing the fullest and most accurate information on the economic and political conditions of foreign countries. We suggest that the Government should take Parliament and the nation more fully into its confidence than has hitherto been the practice. In the long run a firm friendship between nations can be built only on genuine understanding. Nothing is more dangerous than to allow our friendships and antagonisms to be founded on misconception and to encourage popular sympathies and antipathies which are shallow and unreal, because the knowledge from which they are derived is coloured by propaganda and restricted by censorship.

Dangerous as may be the effect of an uninstructed and ill-informed public opinion, it is far less dangerous than the popular agitation that can be deliberately fostered by a partial and tendentious

presentation of facts. The best corrective is free discussion and criticism. If democracy is to have any meaning, the man in the street must feel certain that the information given to him in the Press is the whole of the news and not merely a "hand out" from a Government department, and that the editorial in his newspaper represents what the editor thinks and not "background" material given out at a Minister's press conference. It is essential, therefore, to the successful working of parliamentary democracy that there should not in time of peace be any kind of direct, or indirect control by the Government over the Press. We consider also that the whole question of departmental press officers and public relations officers should be carefully examined.

Further, we are of opinion that the present charter of the B.B.C. should be reconsidered with a view to revision. During the inter-war period the wireless talks of so-called experts on foreign policy had an effect on public opinion quite disproportionate to their authority. The influence they enjoyed was derived, at least in part, from the semi-official status of the B.B.C., although they might in fact be speaking for themselves or on behalf of propaganda organizations. There is, of course, no reason why such views should not be advocated in wireless talks, but it is misleading to the public that they should gain the added prestige of a semi-official sanction. A corporation not directly subject to the Government's control, but enjoying an unrestricted monopoly of all broadcasting facilities in this country, is a constitutional anomaly which cannot in our opinion be justified, and which we believe to be unwarranted by the technical facts of the case.

We suggest that there should be at least two and, if possible, more competitive networks under separate control, and that it is worth considering whether in addition to the present B.B.C. such organizations as the British Arts Council and the British Council might be usefully called upon. Alternatively it has been suggested that the regional stations might be established as separate organizations, but the desired result would not be achieved unless they were made entirely independent of control by the B.B.C. in London. We make no recommendations in this matter, but we are convinced that the introduction of an element of genuine competition in the national broadcasting system would not only secure a more balanced selection of political opinions, but might also improve the quality of the other broadcasts and give wider scope to literary and artistic talent.

The only real safeguard against the shallow political excitement which can so easily be aroused by mass propaganda, is to be found in the sound sense and independent judgment of the individual citizen. It should be the purpose of education to foster this independence of outlook. The Government should seek by providing education to secure the widest possible opportunity for each individual to develop

his own natural capacity, and it should also protect against an ever encroaching uniformity, the voluntary associations, religious, social and educational, which are necessary for the preservation of freedom. It is not within our province to make recommendations on educational policy. We would say only that secondary education for all children and ample opportunities for adult education are the necessary prerequisites of democracy. Knowledge in itself is no safeguard against folly. Many of those whom we may consider susceptible to wrong-headed political agitation are at least superficially well-informed. Their influence is, we believe, dangerous not because the majority of people share their outlook but because an aggressive and hypercritical minority will always gain disproportionate influence when those of a more tolerant and contemplative turn of mind lack confidence in themselves. The standard of teaching which can be achieved in the immediate future may fall far short of that to which we seek to attain. But the human mind is surprisingly robust and the individual, given access to knowledge, and the opportunity to develop his own particular bent, will in time gain the independence and assurance which is essential to democratic citizenship.

Above all, we must have confidence in our native institutions and ways of thought. The test of national character is the ability to understand and appreciate the achievements of other nations without seeking to imitate what is alien to our own temperament. The popular enthusiasm which has been aroused by the fighting qualities and endurance of the Russian people has led to a growing interest in, and admiration for, the social and political institutions of Soviet Russia. This extends far beyond the ranks of left-wing Socialists. A sympathetic understanding of the art and literature and politics of Russia, or of the United States of America, or of any other nation with which we are in close and friendly contact, can serve but to widen and enforce the lessons of our own experience. The admiration which Russia arouses to-day, and which before the war was felt for some aspects even of Fascist and Nazi Totalitarianism, springs from the belief that these new social systems have taught men to subordinate their own material interests and to find satisfaction in a sense of public service which rises above the desire for personal advancement. But we are an essentially individualistic people. It remains for our own democracy to prove that it can give scope to this idealism without enthroning the false gods of unanimity and uniformity, or denying the freedom of the individual which is the only sure foundation of civilized society.

The Constitution can do no more than provide the structure within which the nation must pursue its political destiny. We shall have achieved our purpose, if, in some small measure, we can help to fortify, strengthen and enrich the political habitations of a free and ancient Commonwealth.

III. THE BRITISH PARLIAMENTARY SYSTEM

We do not believe that the British people wish to replace by any other form of democracy the parliamentary institutions which have been their outstanding contribution to the art of government and which have achieved such marked success in Great Britain and in the Dominions. The American Presidential system, which is based on the separation of legislative and executive powers, has certain advantages and also grave disadvantages as compared with the British form of government. It is a system which has shared the same historical origins, but has grown in a different political environment; it is incompatible with Constitutional Monarchy and runs counter to the British tradition of a sovereign Parliament. No advantage, in our opinion, would be gained by the introduction of any form of direct legislation. The Referendum and Initiative as practised in Switzerland would, if grafted on to an entirely different constitutional structure, weaken the authority and responsibility of Parliament without increasing the efficiency of the Executive. One of the gravest problems of modern government is to distinguish between those questions which can be settled by popular vote and those which should properly be left to the informed decision of Ministers. The British Constitution wisely ordains that a vote of the people on a particular issue is never divorced from a vote of confidence in the peoples' representatives who support or oppose the measure in question.

In examining the Constitution as it exists to-day we have arrived at the conclusion that its defects are not due to any fundamental weakness in the machinery of responsible parliamentary government. We discuss later in this section certain dangers against which it is necessary to guard, if the full advantages of an efficient Cabinet system are to be retained in an age of mass democracy and increasing extra-parliamentary activity. But no one who has studied the rise and fall of parliamentary institutions on the Continent of Europe will be tempted to make any change which might impair the characteristic feature of the British system; a strong and responsible Executive. In normal circumstances a British Government has the support of a majority in the House of Commons, and there is an official Opposition ready to take its place. The Cabinet takes the initiative in policy and legislation; if its policy is not endorsed by the House of Commons, it must either resign or appeal to the electorate for a new mandate. The final decision rests with the people, and the Government must stand or fall by the result. The strong leadership of the Cabinet in the British House of Commons, therefore, depends upon two essential factors; the existence of two large political parties and the right of the Prime Minister to advise a dissolution of Parliament.

It is these conditions which have made possible the practice of Cabinet responsibility as understood in this country:—

1. The Cabinet is fully and solely responsible for national policy and for the administration of all Government departments. It is free to consider any vote taken in the House or in Committee of the House, as a matter of confidence. This does not mean that the Government has unlimited power or exercises a kind of "Cabinet Dictatorship". If a measure is unpopular or ill-conceived, a Government may find it necessary to withdraw its proposals or drastically to amend them. This has happened quite frequently during recent years in spite of, perhaps even because of, the large majorities at the disposal of the National Government and of the Coalition Government (*e.g.*, the Unemployment Insurance Regulations 1934, the Milk Bill 1938, the National Defence Contribution 1937). It is a sound principle that if a Bill is to be amended, the amendment should be accepted by the Government and not forced upon it by an adverse vote. The Government thus remains fully responsible for legislation; if it will not accept an amendment and can no longer count upon the allegiance of its followers in the House of Commons, it must either resign or appeal to the electorate. In practice matters are seldom pushed to extremes and a Government with a majority in the House of Commons over all other Parties nearly always remains in office for the full length of a Parliament. The Prime Minister may recommend an earlier dissolution in order to obtain a new mandate for an important change of policy, but he is seldom forced to do so by opposition in the House of Commons. A Government which knows its own mind and is determined to carry a particular measure, can nearly always overcome an incipient revolt amongst its own supporters, but should it consistently ride roughshod over criticism within its own party, it must, sooner or later, come to grief.

A Cabinet which is in a minority in the House of Commons may, of course, find it necessary to accept adverse votes. This was the unhappy position in which the two Labour Governments of 1924 and 1929 found themselves. Such a state of things is admittedly unsatisfactory. On major issues a Minority Government can sometimes carry its measures into effect by the threat of dissolution as the second Labour Government did in passing the Coal Mines Reorganization Bill. But the leader of a Government which cannot command a stable majority will, before long, find himself forced to advise a dissolution, and there is every probability that the subsequent General Election will clarify the situation and lead to the return of a majority.¹

2. All members of the Cabinet are responsible for its decisions. In the event of disagreement it is open to a Minister

¹The effect of the electoral system in bringing about this result is discussed below. See page 27.

to resign, but he must, if he remains in office, accept full responsibility for decisions which he may have opposed within the Cabinet. This applies to a coalition no less than to a single party Government. The "agreement to differ" of 1932 was a serious infringement of this principle and was rightly criticized at the time.. As it happened the dissident Liberal Ministers resigned very shortly afterwards. Had they remained in office whilst openly opposing the policy of a Government of which they were still members, a precedent would have been established which might have destroyed the very basis of joint responsibility. Joint responsibility does not imply, as has sometimes been supposed, that the whole Cabinet need necessarily resign because the position of a particular Minister becomes untenable. During recent years the practice of "reshuffling" a Government has become common, and particular Ministers may be dropped as a result of adverse criticism in Parliament or in the country. The Government as a whole may give way to the "sense of the House" when the policy or administration of a Minister has been criticized, just as it may give way in the matter of the amendment or withdrawal of bills. The important point is that the Prime Minister remains responsible for the composition of his Government.

We have thought it necessary to emphasize these essential principles, because it is a common practice for those who criticize the shortcomings of our Constitution to attack the very elements in it which have saved us from the worst evil of democracy, a weak and inefficient Executive. It was above all the failure to produce a strong Cabinet willing to undertake responsibility which led to the decay of parliamentary institutions on the Continent of Europe.

In France and Germany where conditions were unfavourable to the development of a true sense of parliamentary leadership, Ministers who wished to support a vigorous national policy were powerless to resist the destructive criticism of narrow and often irresponsible parliamentary groups.¹ The multiplicity of

¹The weak position of the Prime Minister in France and of the Chancellor in Germany was largely due to the fact that the right of dissolving Parliament was entrusted to the Head of the State with the express intention that he should be able to use it if, in his opinion, the representative Assembly no longer enjoyed the confidence of the country. In France, according to the Constitution of 1875, the President could dissolve the Chamber only with the consent of the Senate. The presidential right of dissolution was considered dangerous and undemocratic. It fell into disuse after President McMahon had used it in 1877 to rid himself of the Simon Government which still enjoyed a majority in the Chamber. In Germany under the Weimar Constitution the right of dissolution was looked upon as an exceptional power to be exercised at the discretion of the President. During the last years of the Weimar Republic Herr Brüning used the threat of dissolution to keep together a precarious parliamentary majority, but he could do so only so long as he enjoyed the personal confidence of the President. In neither country was the British constitutional practice adopted whereby the Royal Prerogative of dissolution is exercised on the advice of the Prime Minister.

political parties made it impossible for any one party to gain a clear majority. Every Government was a coalition and there was no strong tradition of joint responsibility. In France the Chamber was elected for a fixed period of four years; the Prime Minister could not threaten to dissolve, and he had, therefore, no weapon with which to check opposition among his nominal supporters. It became a common practice for parties in the Chamber to attack the Government, even though their own leaders might be members of the Cabinet. In time the inevitable consequences followed and Cabinet Ministers themselves openly criticized their own Cabinet colleagues. Good constitutional traditions breed good political habits. But the reverse is also true. The habit of factious opposition became so deeply ingrained that even in the hour of greatest national danger it was impossible to achieve any genuine co-operation between political parties. In Germany, under the Weimar Republic, the weakness of the Executive led to the domination of the party organizations. The Chancellor could not resist opposition by dissolving the Reichstag unless he enjoyed the personal political support of the President. The overthrow of a Government was not normally followed by an appeal to the electorate. The effect of the electoral system, moreover, was to encourage the formation of a large number of strongly organized parties. It frequently happened that Ministers faced with the necessity of some difficult or unpopular decision found their position undermined by the action of their own party organizations. In 1924 the Nationalist members of the Cabinet had agreed to support Herr Stresemann's Locarno policy, but were forced to resign by the adverse vote of the Nationalist Parliamentary Party. In 1930 the same thing happened to Herr Müller, the Socialist leader of the Grand Coalition. The Socialist members of the Cabinet had agreed to support the necessary measures of economy and financial reform, but their decision was repudiated by a small majority at the Social Democratic Party meeting. The result was the fall of the Government, and at the next election the Nazis gained their first big political success. The effect of this method of procedure was that in France and Germany the political parties lost all sense of responsibility and no longer considered it their function to produce a national policy in the interests of the whole community. There was never an agreed policy, only an unwilling compromise between conflicting interests; the party machinery was controlled by sectional interests which the political leaders were not strong enough to resist. In France a section of the Right was dominated by the *Comité des Forges*, whereas the Left could never form a stable coalition owing to the extreme particularist policy of the Communists. In Germany the whole parliamentary system was

discredited; the weakness and instability of democratic government was one of the most effective propaganda weapons of the Nazi opposition.

In our opinion the successful working of the British system of Cabinet government would be gravely imperilled if certain tendencies which appeared before the war were allowed to develop further. We wish, therefore, to draw attention to the following conditions which are essential to the maintenance of a sound constitutional tradition:—

I. A Government, when in office, must on essential issues pursue without reservation the policy which it considers necessary in the national interest. One of the most difficult tasks of statesmanship is to decide when a compromise can legitimately be accepted, but there is no vestige of historical or constitutional justification for the view that Ministers can divest themselves of their responsibility for the wise and prudent conduct of affairs by pleading the existence of a public opinion largely favouring policies unwise or imprudent. The failures of policy to which we have already referred, were due, at least in part, to the unwillingness of Governments to accept the full consequences of Cabinet responsibility. During the inter-war years the Conservative Party, with two short exceptions, held the leading position in every administration and often with the support of unusually large majorities in the House of Commons. None the less it is frequently argued in extenuation of their shortcomings that these Governments were not "strong enough" to carry into effect the policy which Ministers believed to be necessary in the interest of national security. The difficulty is undoubtedly a real one. The British Constitution gives great power to the Government between elections, but its position at an election is extremely vulnerable. A comparatively small swing over of opinion among the electorate may lead to the crushing defeat of a party which ventures to support necessary but unpopular measures. It is the clear duty of a Prime Minister, nevertheless, to stand firmly by any policy which he and his colleagues consider essential; to advise a dissolution if his policy is not endorsed by Parliament, and to inform the electorate of the consequences, as he sees them, of rejecting the policy which he advocates. We would, however, point out that the full acceptance of this doctrine, which involves the willingness of Ministers, if necessary, to risk electoral defeat, presupposes the existence of an alternative Government to which the conduct of affairs can safely be entrusted. We cannot too strongly urge our conviction that the successful working of our parliamentary system will depend on there being some measure of agreement between Government and Opposition on essential questions of national security.¹

¹For a further discussion of this question see below, page 112.

II. Ministers must maintain their freedom to support within the Cabinet and before the House of Commons any policy which they consider expedient in the national interest, irrespective of the decisions of their party organizations. The duty of a Minister when in office is to consider the safety and welfare of the nation as a whole; he is not the delegate of a political party or of any outside association, and he must not be tied by the instructions of a party caucus. Policy is hammered out within the Cabinet and is then presented directly to Parliament; the Ministers who are responsible for the initiation of policy and for the effective decisions, owe their first loyalty to the Government of which they are members. Properly applied, the system is strong enough to survive the difficulties of a Coalition Government. Ministers who consider themselves jointly responsible for Cabinet decisions, and who are in a true sense leaders of their respective parties, must be able to overcome dissensions between the rank and file of their supporters. On various occasions during the recent Coalition the political truce was gravely strained by the desire of certain sections of the Labour Party to press party interests at by-elections. In 1942 Mr. Herbert Morrison in a speech to the Labour Party Conference insisted that in the interest of national unity the truce must be maintained, and that it would be impossible for Ministers to work together in the national interest, if their supporters opposed each other in the constituencies. Statements to the same effect were made from time to time by the Prime Minister, and by Socialist members of the Cabinet.

While Ministers, as a general rule, have shown a laudable degree of courage and independence in maintaining the sound practice of joint responsibility, we would point out that their position is made more difficult by the modern development of party organization. This applies particularly to the Labour Party, which is more closely organized than any other. A Labour leader in the House of Commons finds his authority continually subject to challenge not only by the Labour Party Conference and the T.U.C. outside Parliament, but also by the Party Committee within Parliament. In the Conservative Party it is also customary for important questions of policy to be discussed in the Party Committee. The difference between the practice of the two parties consists in the fact that there is no rule by which Conservative members in the House of Commons are bound to adhere to the decisions of the Party Committee or of any other party meeting. In the long run the independence of Ministers cannot be maintained unless the ordinary member of Parliament retains his freedom to judge on its merits the policy which is laid before him. It is perfectly legitimate that Ministers should appeal to the loyalty of their followers in the House of Commons and, if necessary, resist opposition by the threat of dissolution, but it is not legitimate that a member, when deciding to give or withhold his support, should be bound by the majority vote of a parliamentary caucus, or of an extra-parliamentary

party organization. The active participation of the ordinary citizen in helping to work out the programme of the party to which he adheres is a sign of virile and healthy democracy, but, if this practice degenerates into the imposition of a strict mandate on the party's representatives in Parliament, the inevitable effect will be to destroy the energy and initiative of the Executive, on which the strength of our constitutional system ultimately depends.

These are not, in our opinion, matters upon which it is possible to legislate. We confine ourselves, therefore, to pointing out what we believe to be the true theory of responsible government, whilst at the same time urging that special attention be given to that part of our Report in which we discuss the composition of the House of Commons and the organization of the Executive. It is a commonplace of political science that no system of government is entirely stable. Our institutions have grown from the past into the present; at each stage in their evolution they have been affected by the stress and conflict of contemporary politics; each generation of political leaders has left its mark upon the structure of the Constitution. The strong system of Cabinet Government was the peculiar contribution of the nineteenth century; only by the courage and foresight of our statesmen, and by the wisdom and forbearance of our people, can it adjust itself successfully to the needs of the present age.

PART TWO

“Lords and Commons of England, consider what Nation it is wherof ye are and wherof ye are the governors: a Nation not slow and dull, but of a quick ingenious, and piercing spirit, acute to invent, subtle and sinewy to discourse, not beneath the reach of any point the highest that human capacity can soar to.” JOHN MILTON, 1644.

IV. THE FRANCHISE, DISTRIBUTION OF SEATS, ETC.

We do not make any recommendations for the alteration of the franchise, neither have we considered in detail the question of the distribution of seats. These subjects have been exhaustively discussed by the Speaker's Conference. We are in general agreement with the findings of the Conference¹, in so far as they deal with the present system of election to the House of Commons.

With regard to the redistribution of seats we would, however, point out that the principle of the quota² may cause complications unless considerable elasticity is allowed in its application. We note that provision is made for discretionary powers on the part of Boundary Commissioners in the application of the rules proposed “if special geographical considerations appear to render such a course desirable”.³ Serious difficulties may, we think, arise in thinly populated areas where the existing constituencies are geographically large, although the number of electors is small. It would not, in our opinion, be advisable still further to increase the size of such constituencies. No Member of Parliament can make himself personally known to tens of thousands of electors, but anyone who has practical experience of electioneering and has represented both town and country constituencies will realize that it is far easier for a member or candidate to make his presence felt effectively in a compact urban constituency, even though the population is large, than in a thinly populated district if the area to be covered is unduly wide.

We are in entire agreement with the recommendation of the Speaker's Conference that the University franchise and the existing number of University seats should be retained.⁴ The University

¹Conference on Electoral Reform and Redistribution of Seats. Letter from Mr. Speaker to the Prime Minister, May, 1944. Cmd. 6534.

²Par. 6. “The standard unit of electorate for each Member of the House of Commons for Great Britain shall be a quota ascertained by dividing the total electorate in Great Britain by the total number of seats (other than University seats) existing at the time of the Boundary Commissioners' Report.”

³Loc. cit. Par. 15.

⁴Loc. cit. Par. 26.

franchise is admittedly a departure from the normal method of election by territorial constituencies. It would be mere pedantry for that reason to exclude the University members, who have done valuable service in the House and maintained an interesting historical tradition. Even the most doctrinaire adherents of an egalitarian franchise ought not, we think, to be unduly offended by so small a concession to the merits of our seats of learning, both ancient and modern. We would, moreover, point out that the University franchise is a useful means of enabling a not inconsiderable number of persons engaged in overseas service to take part in elections. The ensuing discussion of the Electoral System does not apply to University constituencies.

V. THE ELECTORAL SYSTEM

The British electoral system of single-member constituencies and relative majorities is the simplest which has ever been devised. It requires less of the elector than any other, and involves the minimum of administrative difficulties. One ballot only takes place and, except in the few remaining double constituencies, the elector has only to select one candidate. More important than this, the system does undoubtedly encourage a tendency to return, in spite of constant splits and reshufflings, to something like a simple division between Government supporters and Opposition. The most cursory consideration of the parliamentary history of the nineteenth and twentieth centuries disproves the contention that it forces upon the country a rigid two-party system.

(i) Criticisms and Possible Alternative Methods of Election

The electoral system has, however, been subjected to some criticism on the ground that it works unfairly when there are more than two parties. The growth of the Labour Party during the present century has, it is contended, made it necessary to seek some method of election specifically devised to meet the needs not of a two-party, but of a three-party system; as things are at present the Liberal Party, which is the smallest of the three, is artificially squeezed out; in many constituencies Liberal voters are in effect disfranchised; when there is a three-party contest it often happens that a candidate, who has not the support of the majority, and who would not otherwise have been returned, is elected on a split vote.

Still more serious is the contention that the present method of election leads to a consistent distortion of the popular will. It would be mathematically possible, even if there were only two parties, for the party which had polled a minority of votes to return a majority to the House of Commons. This might occur if one party won a bare majority of seats by small majorities and the other won a minority

of seats by very large majorities. In fact this is most unlikely to happen. It does, however, frequently happen that the number of seats won by the victorious party at an election is proportionately far larger than the number of votes cast in support of its candidates. This is illustrated by the results of some recent elections:—

	1929	Conservatives	Liberal	Labour	Others (Com., I.L.P., Ind., etc.)
Votes Cast	8,561,579	5,220,577	8,306,477	302,070
Candidates Returned	254	57	288	7	
1931	National Gov.	Ind. Lib.	Labour	Others	
Votes Cast	14,423,517	93,640	6,642,230	129,058
Candidates Returned	551	4	52		
1935	National Gov.	Liberal	Labour	Others	
Votes Cast	11,570,179	1,477,314	8,300,627	99,124
Candidates Returned	427	21	154	9	
1945	Conservatives and National	Liberal	Labour	Others (inc. Commonw'lth)	
Votes Cast	9,960,809	2,239,668	11,992,292	780,538
Candidates Returned	213	12	393	22	

(These figures are not entirely comprehensive since they take no account of uncontested elections.)

It will be seen that in 1929 the Conservatives had a small margin of votes over the Labour Party (this margin would be larger if uncontested elections were taken into account). But the Labour Party gained 288 seats in the House of Commons as against 254 Conservative seats. At this election there were 444 three-cornered contests. The Labour Party gained the chief advantage from the splitting of the vote, since at that time most Liberals would probably have voted Conservative rather than Socialist. *The Times* calculated that 80 out of the 135 seats lost by the Conservatives to Labour were lost as a result of Liberal intervention, since the Labour candidates were returned on a minority vote. In 1931, however, the Conservatives and their National Liberal and National Labour allies gained a supremacy in the House of Commons which was mathematically out of all proportion to the votes cast in their favour. The total Government vote was 14 million and the Opposition vote 6 million. But the National Government supporters had 551 seats and the Opposition only 56 seats in the House of Commons. In 1935 the result was rather more normal, but still the Government had an exaggerated majority. The total vote for the National Government was about 11 million as against 9 million for the Opposition, which is in the proportion of 53 per cent. and 46 per cent. Yet the Government obtained 427 seats and the Opposition 184, which is about 66 per cent. and 33 per cent. At this election there were 153 three-cornered contests, but in only 48 cases did the successful candidate get in on a minority vote; about 28 of these were

Conservatives. In 1945 the Labour Party polled approximately 48 per cent. of the total vote, the Conservative and National Candidates 40 per cent., and the Liberals 8 per cent. The Labour Party obtained 62 per cent. of seats in the House of Commons, the Conservatives 33 per cent. and the Liberals 1.6 per cent. Once more the number of members returned in support of the winning party was proportionately larger than the number of votes cast in its favour. The Liberal Party at this election polled a slightly higher percentage of votes than in 1935, but the number of members returned was reduced by nearly one half. In 332 constituencies there were more than two candidates; 172 members were returned on a minority vote, amongst these were 84 Conservatives and 76 Socialists. It does not, however, appear likely that on this occasion the final result was seriously affected by the splitting of the vote. The total vote polled by the left wing groups and independents was very small, and the extent to which Liberal candidates drew votes from Socialists or Conservatives seems to have varied considerably from one constituency to another.

The advocates of electoral reform usually support either the "alternative vote" or some form of proportional representation.

(a) **The Second Ballot or Alternative Vote**

In these forms of election the single-member constituency would be retained, but the procedure is somewhat more complicated than the existing one, involving either two ballots or the registering of a second choice. In either case the intention is to prevent the anomalies that may occur when more than two candidates stand in a single-member constituency. Any candidate who secures an absolute majority of votes on the first ballot is returned, but, if no candidate has a clear majority over the combined votes of his opponents, either a new election is held or else the electors' second choices are taken into account in deciding between the two candidates who obtained most votes at the first poll. The second ballot is obviously open to grave objection on the grounds that it would prolong the disturbance and uncertainty of a General Election and would add considerably to the expenses of candidates. It would, moreover, be no easy matter to induce the electorate to go to the polls twice within a week or a fortnight and a considerable falling off of votes at the second ballot might, therefore, be expected. The advocates of the Alternative Vote claim that, whilst avoiding these disadvantages, it would ensure true majority representation and prevent the return of candidates on a minority vote resulting from three-cornered contests. It would not, however, make any provision for the direct representation of minorities and would not therefore help the Liberal Party whose troubles arise from the fact that it is the smallest of the three main parties. In those

constituencies in which a Liberal candidate had no hope of gaining a majority Liberal electors would be able to register an ineffective first choice for a candidate of their own choosing, but they would still be faced with the dilemma of giving their effective vote, in this case the second choice, for either a Socialist or a Conservative.

In France the practical effect of the second ballot was to encourage the splitting up of parties. Small groups found it worth while to run candidates at the first ballot and then to bargain for position at the second. The Alternative Vote leads to similar results, although the bargaining for second choices takes place before the first ballot. The result is insincerity and confusion of principle. The candidate who represents the largest party may often be defeated, and his successful rival knows that he can hope to retain his seat only if he can keep the support of some separate group or party with which he has found it worth while to compromise. He may well become the "prisoner of the minority".

(b) Proportional Representation

Every form of Proportional Representation requires a multi-member constituency. The object is to secure the representation of minorities in proportion to their numerical strength. The extent to which this is achieved varies according to the method used. On the whole it may be said that the larger the number of members returned from each constituency, the more possible is it to secure a mathematically accurate representation of minorities. The English advocates of Proportional Representation usually favour the "Single Transferable Vote". The fact that the "List System" has fallen into disrepute can be attributed very largely to the evil experience of Germany under the Weimar Republic. The system adopted in Germany was carefully devised to prevent the "wasting" of votes, and to ensure that the number of candidates returned from each party list was in exact proportion to the number of votes cast in its favour. It led in practice to an unprecedented multiplication of parties and to the subjection of the candidate to the party machine. It is maintained that the "Transferable Vote" would give weight to the personal merits of candidates and would prevent an undue increase in the number of political parties. There seems no reason to suppose that this contention is true. If a number of members were to be returned from large constituencies, it is probable that, except in the case of well-known party leaders, the vast majority of electors would know little or nothing of the candidates presented to them, and would vote on the straight party ticket. The avowed object of Proportional Representation is to secure the separate

representation of minorities, and in so far as it achieved its purpose it must bring about a progressive disintegration of parties.

There are within our existing parties many subsections of opinion which at present interact upon each other in the formation of policy. A minority which is not represented by a separate political organization does not for that reason become inarticulate. But it would be pointless to change the electoral system unless it were intended to enable any recalcitrant group to break away from one of the main parties and to establish itself as a separate entity. The consequent multiplication of parties in the House of Commons would tend to encourage faction and irresponsibility. There is no better school of statesmanship than the hammering out of policy between the various interests and opinions that go to make up a great "national party". But where there are many parties and none hopes to gain an absolute majority the parties can afford to neglect major issues and to appeal to narrow sections of the population.

In addition to this, there is the grave objection that large multi-member constituencies would finally destroy the tradition of close and direct contact between a Member of Parliament and those whom he represents. The personal tie between the member and his electors, which is possible only in a comparatively small constituency, is one of the strongest safeguards against the domination of the party machine. It makes possible individuality, initiative and independence on the part of the private member. It is interesting, in this connection, to observe how rare it is for an able Member of Parliament to be repudiated by his constituency because he has incurred the displeasure of the Party Whips. Quite often a member has been re-elected in the same constituency even though he has changed over from one party to another.

(2) The Electoral System and the Strength of Political Parties

The state of parties during the last twenty-five years does not, in our opinion, warrant a change in the electoral system. Three or more parties have often existed in the past when some major political issue has cut across the previous divisions of political opinion. This happened when the Peelites broke away from the Protectionist Tories and again when the Liberal Unionists refused to support Mr. Gladstone's Home Rule policy. In such circumstances the normal effect of the electoral system is not to stifle the free movement of opinion, but to bring about a gradual realignment into two major parties capable of forming alternative Governments. Small parties are to a certain extent penalized by majority voting, but the comparatively small single member constituency gives a corresponding advantage to parties with strong local associations. The rapid growth of the Labour Party

from very small beginnings is itself evidence that no insuperable obstacle stands in the way of a small party which represents a genuine political outlook. So long as the Labour Party won its main support from a single social class and the Liberals represented a distinct point of view, the Liberals were able to win a considerable number of seats apart from their old traditional strongholds. In 1945, however, the Liberal Party did not produce a policy substantially different from that of the Government which it had decided to oppose and, although it entered the field with more than three hundred candidates, this attempt at revival proved an utter failure. The lack of any real *raison d'être* is also a sufficient explanation for the defeat of the Commonwealth Party. During the period of Coalition Government, when there was no official Opposition, Commonwealth candidates had achieved some success at by-elections because they were able to garner all the fruits of discontent. But with the Labour Party once more in opposition they had nothing to offer but an overweening confidence in their own merits and a policy which differed from that of the Socialists only in its lack of moderation and practical sense.

The idea that a change in the electoral system would strengthen the moderate element in politics against the extremes of left and right is, we think, an illusion. Continental experience has shown that under Proportional Representation it is the moderate or middle parties which most quickly disintegrate into conflicting groups and factions and that only those parties flourish which can rely on a strong extra-parliamentary organization. In face of a weak and divided centre the more extreme parties are tempted to pursue a policy of irresponsible opposition. A two-party system, on the other hand, makes it possible for the leaders of each party to rely on the support of moderate opinion in controlling their more hot-headed or reactionary supporters. The decline of the Liberal Party does not mean that the political influence of former Liberals is lost. Those who represent a Liberal point of view can play a far more valuable part within the Conservative and Labour Parties than as a small centre group which could hope to influence affairs only by trading on the weakness of the Government when neither of the other parties had won an independent majority.

In the long run a multi-party system would make coalition government inevitable, and so destroy the very basis of British parliamentary government, which presupposes that the Cabinet has the support and confidence of a coherent majority in the House of Commons. Coalition Governments in this country may work well in times of crisis, because the parties composing them are united in the pursuit of a common purpose which transcends their differences on other issues. But on the Continent, where coalitions were formed of necessity because no one party could command a majority, the Government lacked the support of a strong popular mandate and was subject to all the shifts and expedients of political intrigue. Such

coalitions were usually the result of a temporary bargain between political leaders who had no sense of mutual loyalty and were more often concerned to improve the tactical position of their respective parties than to further a vigorous constructive policy. The effect was seen not only in the instability of Governments, but in the loss of administrative efficiency and integrity.

The allegation that under our existing system election results are a distortion of public opinion is not, in fact, true. What actually happens is not that a minority in the country returns a majority to the House of Commons, but that a swing over of opinion in the country is reflected in a somewhat exaggerated degree in the House of Commons. This is not necessarily a bad thing, since it ensures that a party which has won the approval of the country at a General Election secures an effective working majority in the House of Commons.

There is no reason to suppose that anything but a rough and ready indication of the movement of public opinion can be attained by merely adding up the total number of votes cast for each party at an election. Such a proceeding ignores many important factors which may have affected the results in particular constituencies, *i.e.*, local interests, the merits of individual candidates, etc. With regard to the general direction of public opinion, it must be remembered that the average voter will often support the same party election after election, even though he may be disgruntled with its recent achievements and highly critical of its policy. Inertia and the force of habit are strong. A comparatively small change in voting strength, may, therefore, indicate a very considerable swing over of public opinion. Looked at from this point of view, the results of recent elections will be found more truly to reflect the mind of the country than mere mathematical analysis would lead one to suppose. In 1929, for instance, the result was inconclusive, since no party gained a clear majority. The result may have been unfortunate, but it did fairly accurately represent the sentiment of the time. There was a marked reaction of public opinion against the Conservative Government, chiefly on account of its alleged failure "to cure unemployment". At the same time there was not sufficient confidence in Liberal schemes for creating employment, or a sufficiently strong desire for Socialist measures, to enable either of the other parties to obtain a clear mandate from the electorate. Examples might be multiplied to show that election results do not distort the popular will, but merely emphasize changes in public opinion. This was particularly marked at the elections of 1902, 1906 and 1931. The Opposition was admittedly seriously under-represented in 1931, but the circumstances were exceptional. The country gave an overwhelming measure of support to the National Government and the swing over of opinion against the Labour Opposition was quite unprecedented. But it must be remembered that the big majority in favour of the National Government was won by a combination of

parties representing many different shades of opinion. It is highly improbable that such a majority could be secured by any party which adopted a narrow extremist policy and failed to win support amongst all classes of the population. It is evident that the Labour Party could not in 1945 have won a large independent majority had its appeal been directed exclusively to the "trade union" or "working class" vote.

Finally, there is, in our opinion, one overriding argument in favour of the existing method of election. It is the only method compatible with the modern constitutional practice whereby the fate of Governments is put unreservedly in the hands of the voters at a general election. Such a system is more truly democratic than one which leaves the choice of Governments to a process of political manceuvre within the representative body. The strength of the British Constitution rests in the fact that power is never divorced from responsibility. It is essential, therefore, that the electors should be made to realize that their task is not merely to select candidates competent to represent their own particular views or to sponsor their own material interests. Every citizen who casts his vote at a General Election is called upon to take his part in determining the main issues of policy and in deciding to whom is to be entrusted the supreme conduct of national affairs. This purpose cannot be attained by an electoral system calculated to produce inconclusive results. We recommend, therefore, that the existing system of single-member constituencies and simple majorities be retained.

VI. THE HOUSE OF COMMONS: ITS COMPOSITION AND PROCEDURE

It is essential to the success of parliamentary government that there should be no deterioration in the character and efficiency of the House of Commons. The purpose of the Constitution, as we understand it, is to produce the maximum executive energy and leadership, which is compatible with popular control. But no constitutional machinery can fulfil its purpose, if the right men are not available to work it.

In the nineteenth century the majority of Members of Parliament still belonged to a comparatively small social class, but within that class there was no scarcity of able men ready to undertake a political career and willing to devote their talents to the service of the nation. In our own time the field from which our politicians are drawn has been widened in one sense and narrowed in another. The extension of the franchise in 1867, in 1884 and in 1918 has led to the active participation of men and women of all classes in the duties and responsibilities of government. But it is, none the less, often alleged that the prestige of the House of Commons has declined rather than increased;

that the "best men" do not stand for election and that the ordinary Member of Parliament is not by character or training qualified for political leadership. Much of this popular criticism is undoubtedly exaggerated. There have in recent years been many members of outstanding ability in the House of Commons, and the present Parliament shows promise of abundant vitality. It is a mistake to suppose that nineteenth century Parliaments were a galaxy of wisdom and of wit. The House of Commons has always contained a high proportion of "average" men, who do valuable service in inconspicuous ways and who are well fitted to give the opinion of the rank and file of their supporters. An assembly consisting entirely of potential front benchers would not necessarily be more efficient, and it is doubtful whether the collective wisdom of a body of "supermen" would be greater than that of an average House of Commons. It would assuredly not be more representative of the people. None the less we are convinced that the uneasiness expressed in so many quarters is not without foundation. It is, of course, a question on which it is not possible to obtain positive proof. But we are agreed, on the evidence available, that men who have proved their capacity for leadership and administration in other walks of life are now more often than in the past deterred, by lack of inclination or by financial difficulties, from entering the House of Commons. This is particularly significant at a time when the growth of the Labour Party and the consequent widening of the field from which Members of Parliament are drawn, might lead one to expect that increased competition for membership would produce a higher general level of ability.

The difficulty of finding a sufficient number of men competent to undertake the stupendous task of organizing the nation for war led to the inclusion in Mr. Churchill's Coalition Government of an unusually large number of Ministers who had not previously been members of either House of Parliament. The same thing was done to a lesser extent during the last war, and it is to be hoped that in the future men whose inclusion in the Government is considered desirable on account of their administrative or business experience will not be deterred by financial or other reasons from entering Parliament and undertaking the responsibilities of office. There is no reason why the nation should not benefit by the services of such men, if they are thought suitable for important administrative posts. None the less it is evident that, if the practice went too far, it would have grave disadvantages, since those who have no previous experience of politics often find it difficult to appreciate the political feeling of the country or to adjust themselves to the exigencies of parliamentary government. They may be able administrators, they may initiate policies excellent in themselves, but they are seldom successful in debate or as parliamentary leaders. It seems inevitable, therefore, that the larger proportion of every administration must consist of men who have

had experience of politics and who are able to assess the political as against the technical advantages of any particular line of policy; they must be men who are competent, once they have decided on a particular course of action, to carry it to a successful conclusion, even though they may be faced by considerable opposition in Parliament and in the country.

The problem of obtaining the right type of candidate for the House of Commons, difficult though its solution may be, is not one for which it is possible to provide spectacular remedies. It has been suggested that the activities of Parliament should be drastically curtailed, and that the length of Sessions should be reduced, so as to enable men and women engaged in full-time occupations to give their scanty leisure to service in the House of Commons. This would, it is maintained, produce an abler and a more efficient assembly, since the number of "professional politicians" would be reduced and the number of Members of Parliament who take part in the ordinary activities of the nation would be increased. Proposals are made in this Report to meet the admittedly grave problem of pressure of business in the House of Commons by changes in procedure and by the increased participation of a reformed Second Chamber in the task of legislation, but any attempt to restrict the competence of the House of Commons in discussing the details of legislation would serve only to impair the efficiency of Parliament and to divorce it from the confidence of the people. It is often impossible to separate the broad principles of policy from their practical application in detailed legislative enactments. The House of Commons is properly concerned with both. It is difficult indeed to imagine a situation in which the House of Commons might veto or endorse a general policy of social or educational reform while the ordinary Member of Parliament would be debarred from stating his objections to the details of any particular proposal. It is often the details of legislation, the method by which a policy is carried into effect, which most closely concern the ordinary citizen. The elector naturally expects his Member of Parliament to be well informed on these matters and, if necessary, to criticize the Government's proposals from the point of view of their immediate effect on the daily life of the community. This criticism of detail may often go together with a general acceptance of the principle involved. A representative assembly, moreover, which confined itself to the main issue of accepting or rejecting the general policy of the Cabinet and did not share in the everyday work of the Government it had put into office would, in all probability, develop a tendency to destructive and irresponsible criticism. The result would be to impair the close relations of mutual confidence which are at present maintained between the Cabinet and the majority in the House of Commons and which provide the essential basis of a strong parliamentary system.

In our opinion every effort should be made by the efficient

ordering of parliamentary business to increase rather than to diminish the opportunities for private members to play a constructive part in the initiation of policy and the discussion of concrete problems. Only in this way will it be possible to secure the services of members of outstanding ability with knowledge and direct experience of the varied, and often specialized, subjects which come up for discussion. Men and women of this type are the busiest and therefore the hardest to attract from their own professions and employment. They will seek admission to the House of Commons only if they are convinced that by so doing, they can best sponsor the causes in which they are interested.

Critics of the existing parliamentary system base their arguments almost exclusively on a consideration of the mistakes and shortcomings of the inter-war years. But history does not necessarily repeat itself. Even before the end of the war there was a marked revival of political interest. At the recent General Election all parties, including those which suffered a severe reverse at the polls, were able to put into the field an unusually large number of new candidates who were attracted to politics by their desire to take a more active part in the tasks of reconstruction. This renewal of interest in Parliament can, we believe, be sustained only if all possible steps are taken to ensure that the choice of candidates in the future is not unduly restricted by financial difficulties. The proposals which we make to this end may appear small in themselves, but none the less we attach to them great importance. The success of parliamentary democracy in this country will depend in the future, as it has depended in the past, upon the extent to which the public service in all its branches attracts the best talents of the nation. We have always been a politically-minded people; we have inherited a great political tradition and have expressed that tradition in institutions of which we can be justly proud. These institutions will continue to serve us well, provided that *res publica* remains the first concern of our citizens.

(a) Party Organization and the Selection of Candidates

The party system has always been open to criticism from nimble minded intellectuals who delight to dwell upon the incidental absurdities inherent in all human institutions and from more earnest malcontents who are obsessed by the notion that government by party politicians is necessarily corrupt and inefficient. During the early years of the present century the attack was taken up with zeal by the highest of the highbrows and the lowest of the lowbrows—by Hilaire Belloc and G. K. Chesterton on the one hand and *John Bull* on the other. This was refreshing at a time when the rigours of party discipline were sometimes excessively severe. But it does not alter the fact that much nonsense has been talked and written about the shortcomings and misdemeanours of “professional politicians”. More

dangerous is the undefined discontent which in times of despondency and disillusionment leads those in all classes of society who have no practical experience of government and little natural sense of politics, to shelve their civic duties under the plea that all parties are equally bad and that it makes no difference which is returned to power.

Such criticism is a condemnation of representative government, for the business of no modern self-governing community could be carried on unless some, at any rate, of its citizens were willing to give their time and their energies to the service of the State. The much abused party politicians exist for this purpose and those who have similar aims and interests, sympathies and antipathies, naturally band themselves together, because by so doing, they hope to obtain the parliamentary power to carry out the line of policy which they believe to be best calculated to benefit the country. It is unnecessary to pursue this matter further, because we feel that all practical men and women must realize by this time that the only alternative to the party system would be the institution of some totalitarian form of government by which absolute power would rest in the hands of a single political party.

The House of Commons has usually contained a small number of independent members who have on occasion enlivened the proceedings by their intellectual distinction and the originality of their views. But genuine independents who consistently refuse to align themselves with any political party are rare. A large increase in the number of members who profess no loyalty except to their own individual opinions would in all probability lead to the formation of groups and cabals which by a process of log rolling and mutual give and take would seriously impede the course of business.

The party system necessarily entails the maintenance of a central organization for each political party. It is needed to hold the party together, to collect the funds required for its work and to put its legislative programme before the electorate. It is obvious that political leaders, without the permanent staff supplied by such an organization, could not be kept in touch with the views of the rank and file of their parties in the constituencies, nor could they, without some such central and authoritative channel of communication, make known their policy to their supporters.

We have already drawn attention to the evil consequences which would follow if Members of Parliament were completely subjected to the control of a party caucus. In our opinion the best safeguard against such a state of things is to secure the return of members of ability and character, who can be trusted to judge issues on their own merits and to use their influence effectively within their respective parties.

In the Conservative Party the choice of a candidate is made by the Conservative association in each constituency. Local associations need not, unless they so wish, even refer to the Central Office for

advice; all that is insisted upon by the party authorities is that before a candidate is adopted as the Party's representative, he or she should be pronounced a proper and fitting person to sit in the House of Commons by a committee appointed for the purpose by the National Union. No attempt is made by this committee to inquire into the personal views and opinions of candidates. It is not unnatural that the Labour Party which has grown up as a party of opposition should be somewhat more rigid and more centralized in its organization. The constitution of the Labour Party as it exists at present makes it impossible for a candidate to be officially adopted without the endorsement of the National Executive, and this apparently involves approval not only of his personal suitability but also of the orthodoxy of his political views. It is to be hoped that in the future the Labour Party may, to a greater extent, recognize the value of diversity and independence of outlook in its Members of Parliament, and that the Conservative Party may take effective steps to prevent the present practice whereby some local associations allow financial considerations to carry undue weight in the selection of their candidates.

The Conservative Party organization has repeatedly drawn attention to this practice, and has made it abundantly clear that candidates should be chosen on their merits and that constituencies should not select as their would-be representatives in Parliament individuals whose main qualification is the size of their purses. There are certain constituencies to-day in which the associations do not receive subscriptions from their candidates or members. On the other hand, there are many safe Conservative seats in well-to-do areas where the candidate is expected to pay his own election expenses, and the whole or part of his agent's salary, and also to contribute to the funds of the local association. In such constituencies there is a real danger that the seat may be "put up to auction". Moreover, there is, if the necessary funds are provided by the candidate, no incentive to build up a strong local association and so to increase the number of subscribers. We are agreed in condemning the practice by which rich constituencies with small associations fail to raise adequate funds, and we are also aware of the danger that in certain constituencies a few large subscribers may gain control of the local association and deliberately discourage an increase in membership so that they may be in a position to "nominate" the candidate. In our opinion an active and thoroughly representative local party organization is the necessary foundation of a healthy democracy. We recommend therefore:—

That the National Conservative Union should not recognize any local association, unless it has a subscribing membership which represents a substantial percentage of the Conservative electors, calculated on the basis of recent election results.

We are aware that in many constituencies there is a large "floating vote" and that there is always a considerable number of electors, and not necessarily the least responsible or well informed, who, although they may vote fairly consistently for one party, do not wish to commit themselves to a definite party allegiance. We do not suggest, therefore, that the percentage of party members to voting strength be fixed unduly high. It should be possible, if the results of several elections were taken into account, to arrive at a reasonable figure. No difficulty would be caused in those constituencies which already have vigorous local associations, but it should be possible to stimulate the associations to greater activity in those constituencies where at present the membership bears no relation to the normal voting strength of the Party.

(b) Subscriptions and Election Expenses

We have carefully considered the question of candidates' subscriptions to local associations and the payment of election expenses, and are convinced that this matter should not be left to the party organizations, but should be dealt with by legislation. In our opinion the cost of a parliamentary career is one of the main reasons why many suitable men and women at the present time are reluctant to enter Parliament, and no half measures would be sufficient to deal with so serious a problem. Membership of the House of Commons, besides being unremunerative, is too uncertain to be taken up as a profession. The would-be candidate must therefore continue to earn his living and cannot, unless he is a wealthy man, be expected to undertake the recurring expense of a parliamentary contest.

We consider, also, that the stress of modern life has made it increasingly difficult for able young men and women to enter politics unless they have substantial private means. We do not agree with that rather credulous section of the public which appears to think that the failures of the last twenty years can be attributed to the fact that our leaders were for the most part elderly men and that a more vigorous and imaginative policy would have resulted from a House of Commons filled with eager and inexperienced young men, and presumably young women. But statecraft cannot be learnt without training and experience. Unless at least a proportion of our politicians enter Parliament at a comparatively early age there will always be a dearth of leaders who can take office in the prime of life with ripened political experience.

Investigation would, we think, show that the average age of the House of Commons in the present century has been considerably higher than it was a hundred years ago. It is true that the present House of Commons contains an unusually large number of young

men.¹ But the circumstances were exceptional. Many of the young candidates at the election of 1945 were service men who were prepared to fight a seat and presumably to spend some of their savings before settling down in civilian life. It is highly questionable whether, if things remain as they are, this type of candidate will be available in the future.

The difficulty applies to all parties. In the Conservative Party candidates may be financed out of party funds, but those who are not in a position to pay their own expenses are often at a disadvantage. In the Labour Party the bulk of safe seats have in the past been reserved for old and trusted Trade Union leaders. In the present Parliament the proportion of "Trade Union Members" in the Parliamentary Labour Party has been considerably reduced. But many of the "non-union" candidates adopted by the divisional Labour organizations were dependent on Trade Union Funds in fighting the election campaign.²

We do not consider it compatible with the true functions of Parliament that members should have their election expenses paid by their political supporters or out of party funds or by other organizations. Such a method of payment makes them financially dependent on these bodies. A Member of Parliament should be a representative and not a delegate and everything possible should be done to encourage his independence. Moreover, a member who is continually worried by the problem of his election expenses may find it difficult to approach disinterestedly the question of any vote which might result in a dissolution. We recommend therefore:—

(a) That it should be forbidden by law for any Member of Parliament, candidate or prospective candidate, to subscribe or give a donation to his local political association;

(b) That the State should undertake to refund to candidates all election expenses on an approved scale related to the area of the constituency and the size of the electorate, and that it should be made illegal to exceed this amount as it is now illegal to exceed the statutory maximum.

In regard to (b), we suggest that the State should be safeguarded against freak candidates by the provision that a candidate would be charged for his expenses, if he did not poll a certain percentage of votes. A similar rule now applies to candidates' deposits. Such a provision would prevent exploitation by freak candidates, but it would not prevent any individual otherwise qualified from standing for Parliament, provided that he or his supporters were prepared to take the financial risk.

¹The average age of Labour members in the last Parliament at the time of election was 56. In the present Parliament it was 43 and that of the Conservative members 47.

²In the last Parliament nearly half of the Labour members were Trade Union representatives. In this Parliament less than a third are Trade Unionists. See an article, "The People's Choice", in *The Times*, August 10, 1945.

(c) Payment of Members and Junior Ministers

The amount of time and energy which is demanded of a Member of Parliament in modern times, if he is conscientiously to fulfil his duties in the House of Commons and in his constituency, is so great that it has become increasingly difficult to combine these duties with the pursuit of a regular business or profession. There are still a certain number of professions which are not incompatible with membership of the House of Commons, but the number of such occupations is small. It is, therefore, not surprising to find that a high proportion, some would say an unduly high proportion, of members either enjoy private means or receive financial assistance from other sources. It is obviously desirable that the House of Commons should contain men and women who have gained experience in different walks of life, and it is unfortunate in the extreme that so many people who would like to enter political life should be prevented from offering themselves as parliamentary candidates because they cannot afford to give up their present means of livelihood.

Serious though the problem is, we do not consider that a solution could be found by a large increase in the salaries paid to members. Such an increase would not remove the uncertainty which is inherent in a political career, and it would be a grave danger to the political integrity of the House of Commons if a large proportion of its members were dependent on their parliamentary salaries for their normal means of livelihood. We would, however, stress once more the importance of lightening as far as possible the financial burden which at present falls upon members. We suggest, therefore, that some revision of the conditions of payment should be considered.

As things are to-day, a member receives, in addition to his travelling expenses to and from his constituency, a salary of £500 and an allowance of £100 for expenses, the latter being free of income tax. In fact the expenses of most members, quite apart from the loss of alternative employment, are much more than £100.¹ This unreal distinction is, we consider, an unnecessary burden and irritation. It would be fairer to members, and more in accordance with the facts, either to revise the salary rates or to count the whole sum as expenses.

A still more serious anomaly exists in regard to the salaries of junior Ministers. Many of these posts are, we consider, grossly underpaid. In all branches of the Government Service the rates of payment are on the whole lower than those that can be earned by men of first rate ability in other occupations. But the position of junior Ministers is particularly disadvantageous. Their salaries are often disproportionately lower than those of the ministers in charge of their departments, and may even be lower than those of the senior officials

¹The burden is, of course, somewhat unequal. A member whose constituency is not situated in the Home Counties is compelled either to keep up two establishments or to pay for his board and lodging either in London or in his constituency.

who work under them. No Minister of the Crown can take part in any private business or be engaged in any other lucrative employment. A Member of Parliament, therefore, who does not possess considerable private means and has a family to support may very naturally be reluctant to take office, if, as a result, he has to give up his existing source of income in return for a quite inadequate salary. The hazards are increased by the fact that he may hold office only for a short time and then be thrown back on his own resources. It is mainly from the ranks of junior Ministers that Cabinet Ministers are drawn, and it is essential, therefore, that as many able Members of Parliament as possible should be given the opportunity of proving their capacity by experience in office. We recommend, therefore:—

That the salary of a junior Minister should not be less than two-thirds of that of the Minister in charge of the department.

(d) **Party Organization within the House of Commons**

It is often assumed that the alleged lack of individuality and independence of the average Member of Parliament is due to the activities of the party whips. It is asserted that members are cajoled or dragooned, or otherwise influenced, by the Whips into voting for measures and policies of which they disapprove. We do not believe that there is any substantial foundation for this criticism. The practice by which party leaders use the Whips in order to rally their supporters is a natural and legitimate consequence of organized party government. There is, in our opinion, more reason to fear the development of the opposite process, by which a party attempts to tie the hands of its leaders when in office or even to exercise a power of "recall" over members of the Government. The only safeguard against this practice is for Ministers to stand firmly by their convictions and, if necessary, to appeal to the electorate. Normally the differences between the leaders and the rank and file of their parties are satisfactorily settled by the give and take of parliamentary activity. It is the duty of the Whips not only to secure support for the official policy of their parties but to assist the party leaders in the framing of policy by keeping them closely in touch with the views of private members. While there are obviously some Members of Parliament who are unwilling, for one reason or another, to fall foul of their party organizations, it would be a mistake to suppose that the bulk of back benchers are lacking in independence, and are invariably willing to support their party leaders without question. Anyone, who is at all familiar with the House of Commons, knows that there are issues and occasions when the Whips are compelled to take serious account of opposition by the rank and file of their supporters. It must be remembered that, in ordinary circumstances, the policy advocated by the leaders is that which appeals to their party as a whole and no crack of the whip is needed, therefore, to obtain the party's support in the division lobbies.

It may be argued that nowadays Government measures are often so technical and complicated that private members are not qualified to take an effective part in the discussion of their details, that legislation is really left to the departmental officials and parliamentary draftsmen, and that Members of Parliament lose interest in their work. This problem is discussed in relation to the position of the Executive, but it is worth while in this connection to point out that private members who take the trouble to study any particular branch of legislation are in a position to make their influence felt with the Government both in debate and also behind the scenes. It is a growing practice for private members to form unofficial party committees for the discussion of particular aspects of policy. On various occasions the influence exercised by such groups has led to considerable changes in the proposals submitted by Ministers. There is not, in our opinion, any reason to fear that the activities of these committees will gain an importance comparable with that of an American "pressure group", which would be repugnant to our conception of ministerial responsibility. Members of the House of Commons who can show expert knowledge of their subject usually have little difficulty in making their views known, but any member who has a particular axe to grind and who is suspected of speaking always at the behest of extraneous commercial or business interests soon loses influence with his parliamentary colleagues. We do, however, suggest that these party activities, if they take up too much time, may have a detrimental effect on the attendance of members at the sittings of the House and of its committees. We suggest in a later section of this Report¹ that more might be gained by inter-party discussions of particular problems of government, in Select Committees of the House of Commons and Joint-Select Committees of both Houses of Parliament, and that Civil Servants might with advantage be associated with the work of such pre-legislative committees.

We do not accept the contention that able men of strong character are at a disadvantage in the House of Commons because they may on occasion vote against their party, and that the palms of office fall exclusively to the "yes men" who can be trusted always to obey the party whip. It is difficult to see how the business of government could be carried on satisfactorily unless some kind of party discipline were maintained. But a member who has courage and individuality can probably make a parliamentary reputation more quickly by speaking his mind openly than by consistently following the party lead. The House of Commons has always been intolerant of cranks and faddists and sham intellectuals. Such individuals may, during a few months in Parliament, forfeit a reputation which has been built up by long and laborious self-advertisement. But if a man of real ability and sound judgment once enters the House of Commons, he is

¹ See below, page 97, et seq.

seldom hampered in his political career because he shows independence and originality. This view is supported by a consideration of the composition of recent Governments; a considerable proportion of those who have held ministerial posts or under-secretaryships are men who at one time or another have differed from the official policy of their parties but who, in spite of the ups and downs of politics, have none the less achieved success. This is true even if we disregard the career of the late Prime Minister, who is usually considered as the exception which proves the rule—presumably on account of his outstanding parliamentary gifts.

(e) **Procedure of the House of Commons, Conduct of Debates, Hours of Sitting, etc.**

The House of Commons to-day is faced, in an even more acute form, with the same difficulty which, during the last hundred years, had led to a constant readjustment in its rules of procedure—the difficulty of combining freedom of speech and full discussion with the efficient and speedy dispatch of its necessary business. The rules of procedure of the House are an integral part of the Constitution as a whole. The changes which have taken place in modern times are a direct result of the concentration in the hands of the Cabinet of the effective power to initiate legislation and policy and to control the whole executive machinery of government. The Cabinet now has the disposal of the greater part of parliamentary time and the Standing Orders are so arranged that the majority can, without undue delay, carry its will into effect.

The fact that these results have been achieved without endangering the right of freedom of speech and criticism is due, at least in part, to the strong sense of continuity which has led the House to maintain as far as possible its ancient forms and traditions and to preserve its historic character as the supreme representative body of the nation. The House of Commons has never failed, even in times of vigorous party controversy, to preserve a certain underlying unity. Every important change in procedure has been achieved by agreement between the main political parties and the ordering of business has rightly been looked upon as a matter of constitutional moment in which the House is called upon to act as a trustee for the interests of the nation as a whole.

This sense of corporate responsibility accounts for the fact that, except during the period of Irish Nationalist opposition, the House of Commons has been singularly free from deliberate obstruction. It has made possible the practice by which the distribution of "Government time" is in fact arranged, to a large extent, by agreement between Government and Opposition. It has enabled the House, in normal circumstances, to avoid the use of an arbitrary closure and to secure a large legislative output, whilst at the same time preserving the rights

of minorities. This fundamental basis of agreement is essential to an assembly whose function it is not only to legislate but to give free expression to every kind of dissentient opinion and to provide for the unfettered discussion of every major issue of policy.

We have drawn attention to this aspect because there is, in our opinion, a danger that the demand for rapid legislation may be pressed to the detriment of all other considerations, and that the cry for speed and efficiency may lead to a still greater deterioration in the position of private members. It would be fatal to the success of parliamentary government if all the more important business of the House were conducted by a limited number of front bench members representing the Government and the official Opposition.

We do not consider that any useful purpose would be served by substantially increasing the amount of private members' time. It is, in our opinion, far more important to ensure that private members should be given ample opportunity to express their opinions and prove their mettle in the big debates on the Government's policy and legislation. It is these debates which are reported on the wireless and in the Press, and it is in these debates that a member can show the qualities of statesmanship which may mark him out for future preferment to ministerial rank.

The time at the disposal of the House of Commons, even for important debates is, however, strictly limited, and the number of speakers is still further restricted by the unnecessary length of their speeches. In any debate of importance there are two, sometimes three, Government speakers, two from the front Opposition bench, and a representative usually from each group which claims to represent a distinct political point of view, in addition to which it is customary for any Privy Councillor who rises to be called by the Speaker in preference to an ordinary back bencher. As most of these speakers consider it necessary to address the House for half-an-hour or even longer, the average back bencher stands a poor chance of making his voice heard in any important debate. In any case he has to sit in the Chamber throughout the debate, and the chance of delivering a speech is reserved for the men who possess the greatest physical endurance. The result is that only a comparatively small number of Members of Parliament are heard in these debates—this is not because others do not wish to speak but because they fail "to catch the Speaker's eye".

It is difficult to suggest any way by which this state of things could be improved. The custom by which precedence in debate is allowed to Privy Councillors might be abrogated. An obvious method of saving time would be for the House to make a self-denying rule limiting the time allowed for each private member's speech. The making of such a rule has often been suggested, but it has never been

looked upon favourably by the House. The time has come, we think, when this matter might be more closely considered.

Greater observance should, we think, be given to the rule that speeches may not be read.¹ The practice by which members read their speeches, instead of merely refreshing their memories by notes has become much more general in recent years. The stricter enforcement of the rule would improve the standard of debate by reducing the number of set speeches and encouraging members to take up points made by previous speakers.

We have referred to this aspect of parliamentary procedure because, in our opinion, the fact that only a comparatively small number of members, and those by no means always the best informed, make themselves heard in important debates is unfortunate in the extreme. It is neither fair to the credit of members with their constituents, nor is it good for the House itself, that all its full dress debates should be conducted by much the same members. The debates on the conduct of the war are an example of what we have in mind.

In a later section of this Report we consider the possibility of saving the time of the House of Commons and increasing its efficiency as a legislative assembly and organ of control by the more extended use of committees. Committees, however, should be used only for purposes of preliminary investigation or to consider the details of legislation.² The House of Commons has always refused, and we think wisely, to delegate to a committee any major question of policy. This sound instinct has enabled the House to maintain its sense of corporate responsibility and to preserve the reality and interest of its general debates. It is, also, highly desirable that the times of sittings of the House should be so arranged that members who have their own professions to attend to, can fulfil their parliamentary duties without undue strain. It is impossible for members to attend regularly at committees if this means that they are expected to be present in the House from 11 o'clock in the morning until 11 o'clock at night. The difficulty of obtaining a regular attendance at committees is one of the reasons why Governments are sometimes reluctant to send Bills upstairs. We recommend:—

That there should be one day a week reserved entirely for the meeting of committees and that the House should not sit on this day.³

¹See "House of Commons Manual of Procedure in the Public Business," 7th Edit., p. 107, Rule 153.

²See below, page 93.

³The Select Committee on Procedure has recommended that Standing Order No. 49A should be revived so as to enable the House on certain days to adjourn after questions for the meeting of committees. See Report from Select Committee on Procedure, October 16th, 1945, page 6. Our proposal would, we think, give greater relief to Members.

VII. THE HOUSE OF LORDS

I. THE SECOND CHAMBER IN RELATION TO CABINET GOVERNMENT

We are convinced that the bicameral system should be preserved. This conviction is based on the ground that a Second Chamber can play a useful part in the constitutional machinery provided that it is well constituted and that its rôle is clearly understood. The Second Chamber must not be the political rival of the House of Commons. It is the task of the latter body, which is directly representative of the electorate, to control the Executive. It should be the task of the Second Chamber to act in an advisory capacity both to the Executive and to the Lower House. The Second Chamber, therefore, should be widely representative of different aspects of public opinion, but it should not be elected directly or indirectly by the people. Its influence should be based on the character and experience of its members. It should be composed of men and women who have served the State, or who are qualified by their knowledge and experience in other walks of life, to give their views on matters affecting public policy. An assembly of this kind would, in our opinion, command the confidence and respect of the country by reason of its independence and sanity of judgment.

The difficulty of devising a satisfactory form of Second Chamber, either by reform of the existing House of Lords or by the substitution of some kind of elected assembly, has baffled the minds of statesmen ever since the issue between the two Houses of Parliament became acute at the end of the nineteenth century. Now that these bitter controversies are receding into the past, and political interest is aroused less by constitutional than by social and economic questions, we may be tempted to shelve the stubborn problem in sheer weariness of spirit. The result would in all probability be a decline in the usefulness and influence of the House of Lords and a gradual approximation to unicameral government. On the other hand a fresh consideration of the subject now that it is no longer a matter of acute party controversy, might lead to a settlement which would strengthen the Constitution, and enable the Second Chamber to play a more useful and constructive part in the work of legislation and government.

Such a settlement must be based on a clear understanding of the functions of the Second Chamber in relation to the constitutional machinery as a whole. It is often too readily assumed that the conflict between the two Houses of Parliament was entirely due to the disparity of their composition, and that the failure of the House of Lords to adjust itself to the needs of a democratic community was the sole cause of the decline in the power and influence of that assembly. In the eighteenth century, it is argued, differences between the two Houses

of Parliament were rare, because they represented approximately the same social strata, but the extension of the franchise in the nineteenth and twentieth centuries has made impossible any habitual and fundamental agreement between the democratically elected representatives of the people and the upholders of an outworn hereditary privilege.

In our opinion such a view does not take sufficiently into account the changes necessarily resulting from the development of responsible Cabinet Government. It is now a generally accepted constitutional axiom that, although in a certain sense a Government may still be held responsible to Parliament as a whole, its tenure of office is dependent on the House of Commons alone. It naturally follows that the Assembly which can make and unmake Governments should be the centre of political interest, the forum of party conflict, the focus of the political activities of the nation. A strong Executive, capable of leadership and initiative, is possible only because the closest relations of mutual confidence are maintained between the Government of the day and the majority in the House of Commons. The Cabinet is held finally responsible for every decision of policy, for every act of administration, and if the House of Commons will not endorse the policy which the Cabinet considers necessary in the national interest, it must either resign or attempt to renew its mandate at an election. In our opinion such a system is incompatible with any form of bicameral legislature in which both Houses have approximately equal powers.

A Government which will not submit to the mutilation of its measures by the accredited representatives of the people, to whom it is responsible, will not readily give way to any Second Chamber, whether elected, appointed or hereditary. To restore to a reformed House of Lords the power to veto measures sponsored by a Government which enjoys the support of a majority in the House of Commons, would in all probability provoke a serious constitutional conflict. It is necessary, therefore, to approach the problem of the reform of the House of Lords in the light of these considerations, and to decide what functions can usefully be entrusted to the Second Chamber without endangering the essential principles of Cabinet leadership and responsibility.

In opposition to the view that a decline in the powers and privileges of the House of Lords was inevitable, quite apart from the composition of that Assembly, it may be argued that in the U.S.A. and in France an elected Senate has been able, not only to maintain, but to strengthen its constitutional position. But in our opinion the argument is scarcely relevant. In the U.S.A. the President and his Cabinet are responsible to neither House of Congress. In the event of a dispute between the legislative and executive branches of government a deadlock may ensue which there is no constitutional means of resolving. The House of Representatives does not, therefore, enjoy the position of power and prestige which the House of Commons derives from the fact that it controls and supports the Executive. The

federal structure of the American Constitution gives to the Senate a special *raison d'être*; it is elected for a longer term than the House of Representatives and enjoys greater continuity. These advantages, combined with the powers entrusted to the Senate in regard to foreign policy and federal appointments, are sufficient to account for its preponderant influence. It is significant that, although financial measures originate in the House of Representatives, that body has never attempted to challenge the right of the Senate to amend them.

In France a system of Cabinet Government roughly modelled on our own, was established under the Third Republic. At first the Senate played an insignificant rôle and Ministers were held responsible to the Chamber alone. But towards the end of the nineteenth century the Senate showed a new disposition to assert itself. On several occasions Governments resigned as the result of an adverse vote in the Upper House; the Senate made free use of its right to veto and to amend legislation, and its claim to increase as well as to reduce Budget votes, although disputed, was not specifically denied. It must, however, be remembered that the position of the Government in France was not comparable with that of a British Cabinet; a French Government, accustomed to see its measures mutilated by the Chamber, accepted with comparative complacency the intervention of the Upper House. The difficulty of passing the Budget was in fact so great that harassed Ministers of Finance sometimes looked to the Senate for support in restoring Budget credits which had been rejected by the Chamber.

A further examination of foreign and Dominion Constitutions would, we think, bear out the contention that a strong Second Chamber with an absolute power of veto is incompatible with a system of responsible parliamentary government in which the Prime Minister and his Cabinet enjoy the full confidence of the Lower House and are accustomed effectively to lead and direct national policy.

2. THE PARLIAMENT ACT

Even before the passing of the Parliament Act in 1911 the responsible leaders of both the Liberal and Conservative Parties had in fact accepted the constitutional doctrine that, in the event of a dispute between the two Houses of Parliament, the will of the House of Commons must in the end prevail.¹ There was, however, a serious difference of opinion about the point at which the Lords should give way to the Commons. At the beginning of the present century the Liberal Party evolved the theory that a majority in the House of

¹See Dicey, "Introduction to the study of the law and of the Constitution," 7th Edit., p. 417 and pp. 454-7.

Commons must be able to carry its decisions into effect within the lifetime of a single Parliament.¹ The Conservative doctrine, which was most clearly stated by the late Lord Salisbury, affirmed that the Lords should submit only when there was good reason to suppose that the majority in the House of Commons represented "the full, the deliberate, the sustained conviction of the body of the nation".² The rigid upholders of an ancient privilege might cry out that the Lords should deal with every question on its merits and defeat every measure of which they disapproved, regardless of the wishes of the majority in the House of Commons or of the opinion of the country; but the responsible leaders of the House of Lords leaned more and more to the view that they were justified in rejecting or in radically amending, Bills only when the Government which introduced them had not previously submitted its proposals to the people at a General Election, and could not, therefore, claim a popular mandate to justify its policy. This view of the Constitution presumed that the House of Lords had the ultimate power to compel a Government either to drop a measure or to submit the issue to the verdict of the people at a General Election. It involved the corollary that once the opinion of the electorate was clearly and unequivocally expressed, the Lords would accept the decision.³

From the point of view of the general mechanism of the Constitution there is much to be said for the Conservative doctrine as stated by Lord Salisbury. It is essentially democratic since in every important issue the final decision would rest with the electorate, and it would ensure some safeguard against abuse of power by an unscrupulous majority in the House of Commons. It does, however, involve grave difficulties. It presupposes that a Second Chamber can be devised which can be relied upon to act with impartiality in times of crisis. Lord Salisbury believed that the Lords were well fitted to do so because they enjoyed "a certain languor of

¹cf. Sir Henry Campbell-Bannerman's resolution introduced in the House of Commons, June 24th, 1907. "In order to give effect to the will of the people, as expressed by their elected representatives, the power of the other House to alter or reject Bills passed by this House must be restricted by law so as to secure that, within the limits of a single Parliament, the final decisions of the Commons should prevail." See J. A. Spender, "The Life of Sir Henry Campbell-Bannerman," Vol. II, p. 358.

²Speech in the House of Lords, June 17th, 1869. "It may be that the House of Commons in determining the opinion of the nation is wrong, and if there are grounds for entertaining that belief it is always open to the House to insist that the Nation shall be consulted, and that one House, without the support of the Nation shall not be allowed to domineer over the other. In each case it is a matter of feeling and of judgment. We must decide by all we see around us and by events that are passing. We must decide each for himself, upon our consciences and to the best of our judgment, in the exercise of that tremendous responsibility which at such times each member of this House bears, whether the House of Commons does or does not represent the full, the deliberate, the sustained conviction of the body of the nation." See Lady Gwendoline Cecil, "Life of Lord Salisbury," Vol. II, p. 24.

³See Dicey. *Loc. cit.*

detachment". The independence of the House of Lords and the freedom of its members from the ordinary limitations and restraints of party organization do undoubtedly give great weight to its deliberations on any question of national importance which is not a matter of party controversy. But once party passions are aroused, the Lords could not free themselves from the reproach that they were acting in the interests of a particular political party. From this point of view the position of the House of Lords has always been extremely vulnerable, more especially since the Home Rule controversy at the end of the nineteenth century which led to a permanent and overwhelming Conservative majority in that Assembly. The problem has been further complicated by the growth of the Labour Party, which is quite inadequately represented in the House of Lords.

In our opinion the difficulty would not be solved by the establishment of an elected Second Chamber. It is impossible to conceive of any system of election, whether direct or indirect, which would not be conducted on party lines. An elected Senate would admittedly give a fairer representation to the different political parties, but its members would be much more closely connected with their respective party organizations than are the great majority of the present members of the House of Lords. They would not be free to judge a major political issue with the necessary detachment and would be bound to take into account the desires and wishes of their constituents. The distribution of political parties in an elected Senate would, unless the franchise were deliberately arranged to strengthen the "conservative" element, depend upon the time at which the elections were held. The majority in such an assembly might be "conservative" or "progressive", but it would be largely a matter of fortuitous circumstance whether at any given moment that majority were of the same political complexion as the majority in the House of Commons. It can scarcely be expected that in so vital a matter the country would accept the decision of an assembly which, however eminent its individual members might be, could not claim to stand above the strife of parties.

It is easy to criticize the provisions of the Parliament Act, and it is true that the legislative procedure therein enacted has never been put seriously to the test. In our opinion, however, no good purpose would be served by raising old and bitter controversies at the present time. Any serious alteration in the existing relations between the two Houses of Parliament would arouse a constitutional controversy of the first magnitude, and it would be ill-advised to make the attempt unless there were some prospect of agreement between the main political parties. Of this at the present time there would appear to be no possibility. In politics as in other human affairs it is often a mistaken policy to seek security against every conceivable danger of the future. It is possible that a party majority in the House of Commons might

abuse its power by attempting to force upon the country changes, either "revolutionary" or "reactionary", not in accordance with the considered opinion of the nation. The force of public opinion could, in ordinary circumstances, be relied upon to defeat such an attempt, which would be contrary to the spirit of the Constitution and alien to the traditions of the House of Commons. But should a genuine revolutionary spirit arise in the country, an artificially constructed Upper House, whatever its legal powers, would be but a poor obstacle with which to block the path of a determined majority in the House of Commons. A reformed House of Lords, on the other hand, which had earned the respect and confidence of the nation and which had made no attempt to encroach upon the rights and privileges of the Commons, might, in such an emergency, give more effective expression to the forces of moderation and good sense upon which must ultimately depend the ordered progress of a free people.

3. CONSIDERATIONS CONCERNING SOME ALTERNATIVE FORMS OF SECOND CHAMBER

We have been confirmed in our opinion that the House of Lords should be reformed rather than entirely transformed or abolished, by the evident difficulty of devising any satisfactory alternative. An elected Senate chosen by proportional representation from large multi-member constituencies might be more heterogeneous in composition than the House of Commons, and it might, if it were elected by sections at regular intervals and not at a General Election, provide a more continuous reflection of changes in public opinion. But, even if the power of such an assembly were strictly limited, the very fact that it could claim to be "representative" and "responsible" would inevitably lead to some measure of political rivalry with the lower House of Parliament. There is, moreover, a strong argument against the duplication of elections. The experience of foreign countries suggests that too many elections tend to dissipate the force of democracy rather than to strengthen it. The House of Lords, in spite of the admitted defects in its composition, has always contained a high proportion of able men who have brought to its councils a long and distinguished experience of public service. It should, in our opinion, be possible to secure a fairer distribution of political views in the Upper House without destroying the essential character of an ancient and august institution. But it would be extremely difficult to devise any system of election which would ensure the return of a Second Chamber composed of men of such intellectual eminence and varied public experience. Since one of the main objects of our proposals is to focus the country's intellectual life once again on the actions and discussions of the two Houses of Parliament, it would be a retrograde step to replace the present House

of Lords by a Senate which would probably be at once more mediocre in composition and less interesting in action.

Still more open to objection are the proposals, which have from time to time been made, for the establishment of a body partly hereditary and partly elected. The motive behind such proposals has almost invariably been to provide some method by which to restore the veto to the House of Lords. In our opinion this would be politically impossible, so long as a vestige of the hereditary element were retained. It could be asserted with much force that the hereditary members would form a permanent Conservative nucleus, and that such an assembly could not therefore claim the powers which might conceivably be entrusted to an entirely elected body. But, if the powers of the Upper House are not to be increased, there is, in our opinion, little to be said for the inclusion of elected members. Their presence, unless their number were so small as to prove insignificant, would inevitably destroy the character of the existing House of Lords without ensuring such compensating advantages as might be found in a purely democratic representation.

We have carefully considered the advisability of setting up a Second Chamber elected by functional or vocational representation. We are not here concerned with proposals for an industrial sub-parliament or economic advisory council. In a later section of this Report¹ we emphasize the importance of maintaining close contact between the Government and the representatives of organized industry, and we discuss the relative merits of *ad hoc* consultative bodies as against a general system of industrial representation. Whatever view may be taken of this question, it is clear that a Second Chamber, as distinct from an Economic Advisory Council, must be concerned with the whole sphere of government and not merely with its economic aspects. The most valuable debates in the House of Lords are often those dealing with foreign and imperial policy, with national defence and with social, religious and educational problems. The discussion of such matters is the proper function of a Second Chamber and could not adequately be performed by a body representing only employers and workers in industry, trade and agriculture.

It has, however, been suggested that the Second Chamber might be elected by some comprehensive scheme of vocational representation, which would include every important aspect of national life. This method of election would, it is claimed, avoid a mere duplication of political parties as they exist in the House of Commons. Its purpose would be to secure the return of members with direct, practical experience of the trades and professions of their electors—an experience not to be expected in party politicians representing mixed territorial constituencies.

¹ See below, page 128.

We are fully in agreement with the view that Society must be considered not as a collection of isolated individuals but as an organic whole comprehending within itself a vast variety of smaller associations. These associations should be given the opportunity of a free and full development and, whenever possible, their services should be enlisted in the interests of the community. But to elect a political assembly through the medium of professional organizations would involve great difficulties. It would be a comparatively simple matter to elect representatives of Trade Unions, of the National Farmers' Union, of Employers' Associations and Chambers of Commerce, and it would be possible to add to them a number of doctors, lawyers, teachers, etc., representing the organized liberal professions. Churches, Universities and learned Societies might be established as separate "constituencies", and it is possible that artists, musicians and men of letters might also find a place. But, even so, it could scarcely be claimed that an assembly elected in this way would represent every important interest. What would be the position of consumers? Representatives could be sent from the Women's Institutes, but who would sponsor the multifarious interests of urban housewives? If every trade and craft were separately represented, the size of the assembly would become unwieldy; if, on the other hand, allied vocations were grouped together the members would lose direct contact with their electors. Moreover, the difficulty of allotting the proportion of members among the different electoral bodies would be even greater than in an industrial Parliament. Representation according to the size of each group would defeat one of the main objects of the proposal, which is to secure the full participation of highly skilled professions some of which, although they may be socially valuable, are numerically small. Who would assess the relative importance to the community of all the miners and all the doctors, or of all the agricultural labourers and all the lawyers?

The experience of other countries, in which experiments of this kind have been attempted, is not encouraging. The idea of representation by "estates" was much discussed in Germany during the drafting of the Weimar Constitution, and it was adopted in Italy as the basis of the so-called "Corporative State". In Germany the difficulties proved insuperable, and the Constitution makers had in the end to content themselves with the establishment of an Economic Advisory Council. In Italy the Chamber of Deputies under the Fascist Constitution was ostensibly based on the principle of election by corporations, but, in fact, the whole process of election was dominated by the Fascist Party. The corporations proposed lists of candidates, but the final list presented to the electorate for acceptance or rejection was drawn up by the Fascist Grand Council. In this way the whole difficulty of deciding between the relative importance of various vocations was arbitrarily overcome, and, in any case, the voting strength of the different groups was a matter of no great importance since the powers

of the Chamber were negligible, and no one could appear on the official list of candidates who was not an orthodox Fascist—this and not professional experience was the essential qualification for membership. In Portugal a Corporative Chamber has worked with considerable success, but its members are for the most part nominated, not elected.

The advocates of functional representation are often guilty of confusion between two quite different conceptions; the representation of interests and the use of expert knowledge in government. No one would deny the importance of either, but they are by no means the same. A bricklayer or an engineer may be highly skilled in his craft and he may be competent to voice the interests and desires of his fraternity, but he is not, for that reason, an expert in government. His opinion on foreign policy, on the government of India or the control of the currency may be interesting and even valuable, but it is not more "expert" than the opinion of a politician who has greater leisure and opportunity to study such matters. An assembly elected by vocational groups might in some measure reflect the complex pattern of social life, but it would not have any specific political expertness and would certainly not obtain the services of the most eminent members of each profession, who would, in all probability, be too closely and actively engaged in their own work to stand for election or regularly to attend the meetings of Parliament. An elected body of this kind would consist largely of mediocrities who would even cease to be active members of their trades and professions. But the one element which would be lacking in such an assembly would be the expert in government. No suitable "constituency" could be found for the election of statesmen, diplomatists, colonial administrators and pro-consuls. Nor would it be easy to devise a scheme which would ensure the presence of men with practical experience of the major problems of imperial defence.

We have, in preparing our proposals for the reform of the House of Lords, kept constantly in mind the need for securing the services of eminent men and women with a wide variety of experience. We believe that this object can be better attained by the scheme which we propose than by any system of election.

4. REFORM OF THE HOUSE OF LORDS

We do not suggest that any change should be made in the creation of hereditary peerages or that the hereditary element should be entirely excluded from the House of Lords. But we accept the substance of a resolution passed by the House of Lords in 1910 to the effect that "the possession of a peerage should no longer in itself

give the right to sit and vote in the House of Lords". The main object of our proposals is to restrict the number of hereditary peers who sit in the House of Lords by excluding those who have not attained certain qualifications; and at the same time to strengthen that Assembly by the inclusion as Lords of Parliament for Life of eminent men and women who for financial or other reasons might be reluctant to accept hereditary peerages. The right to receive a writ of summons to the House of Lords is one of the highest honours which the Crown can bestow. This privilege has never been exclusively confined to the hereditary peers, and the peerage itself has never been a narrow aristocratic caste; its ranks have been constantly replenished by the inclusion of men who have achieved success in the battle of life, and who have rendered distinguished service to the nation. We recommend, therefore, that the House of Lords should consist of the following categories of members:—

(a) Hereditary Peers who are the first of their creation:—

The first holders of peerages have played a valuable part in the work of the House of Lords. There is, in our opinion, no reason for their exclusion, since it would be highly undesirable that the honour of a peerage should be bestowed upon anyone not fit to sit in Parliament. At the same time a more generous creation of life peerages may well lead to a reduction in the number of new hereditary peerages.

(b) Hereditary Peers who have succeeded to their peerages provided that they are qualified as follows:—

- (i) By service as a Minister of the Crown, including service in a political Court appointment.
- (ii) By paid service under the Crown for ten years (*e.g.*, in the Navy, Army, Air Force or Civil Service).
- (iii) By membership of the House of Commons for ten years.
- (iv) By membership of the Privy Council.
- (v) By membership of a County Council or County Borough Council for ten years.

A peer could be qualified partly in one category and partly in another, provided that at least ten years of his life had been devoted to regular public service.

A peer, who considered himself qualified to sit and vote in the House of Lords, would apply in the ordinary way for a writ of summons to the Clerk of the Crown. In the event of any doubt arising as to his qualification, which, in the opinion of the Attorney-General, should be inquired into, the Lord Chancellor would recommend the reference of the case to the Committee of Privileges. The peer applying for the writ could appear before

the Committee either in person or through Counsel. The Attorney-General would lay his case before the Committee, which would give its decision in the form of advice to the House to be submitted to the Crown. The House, although it can reject the advice of the Committee of Privileges, is not accustomed to do so, and the Committee would, in our opinion, be in every way competent to test the qualifications of peers applying for writs of summons.

Any peer who received a writ of summons would thereupon become entitled to sit and vote in the House of Lords at the Parliament then assembled and at every successive Parliament. Any peer not qualified to apply for a writ would be eligible for appointment as a Lord of Parliament.

Any peer not qualified to receive a writ, or who did not apply for a writ, would have the right to vote for, and would be eligible for election to, the House of Commons.

A peer who, before succeeding to his peerage, had been a member of the House of Commons, could apply for a writ of summons to the House of Lords, but no peer who had once received such a writ would again be eligible for election to the House of Commons.

We consider it advisable that the qualifications should be as simple as possible. A complicated list might lead to undue difficulty in deciding the eligibility of particular peers. Those which we propose should be wide enough to secure the presence of peers who have served the State or who have proved themselves willing and able to take part in useful public work. It would be difficult to find a qualification which would include peers eminent in literature, in art or in the sciences, but peers whose presence were desired on these grounds could be appointed as Lords of Parliament.

One of the criticisms often levelled against the House of Lords as it exists to-day is that it maintains an indefensible privilege in the hands of persons who have given no evidence that they are fitted for the task of legislation. Peers who have no experience of public life and who have not even taken the trouble regularly to attend the House may, in times of crisis, have an undue influence on its decisions.

The enforcement of the qualification of public service which we suggest would, we believe, suffice to eliminate the abuses to which the hereditary system is liable. We have, however, deliberately refrained from any attempt to exclude those peers who do not regularly attend the House. It is, indeed, difficult to see how such a rule could be enforced. Moreover, the House of Lords is and should be, largely an assembly of experts. Many of the peers who seldom attend its sittings are very effective when they do speak since they are often experts with long experience of government or of some branch of industry or science. The House gains great advantage from the advice

of such peers who may attend only on the rare occasions when the subjects in which they are particularly interested are under discussion. There are also, especially among the younger peers, men who, although they may not often attend the sittings of the House, do valuable and regular work on its Select Committees, and whose services should be retained. The proposed qualification should be wide enough to secure their inclusion, but in any case a peer whose presence was particularly desirable on these grounds could be appointed a Lord of Parliament.

It has been suggested in previous proposals for the reform of the House of Lords that the peers as a body should elect for each Parliament a number of representatives from among their own number. The effect would be to apply to the whole peerage the system already operating for Scotland. We are opposed to this proposal chiefly for political reasons. Conservative peers who have long experience of the working of the House would, we think, agree that its efficiency as a revising chamber has often been seriously affected by the lack of an effective Opposition, and the position is even worse when the Government is insufficiently represented. It could, however, scarcely be expected that the Conservative peers would for this reason vote for their political opponents. Even if some system of proportional representation were used, the result would inevitably be the exclusion from the House of Lords of at least some of the Liberal and Labour peers whose presence is for every reason desirable. Any form of election which could be devised is bound to be conducted on party lines. A constituency would be created and the House of Lords would lose its most valuable asset, the independence of its individual members. At the present time peers, to whatever party they may belong, do not feel themselves obliged to obey the wishes of the party Whips; but once a system of election were adopted, the influence of the Whips would be greatly increased.

It is clearly equitable that those hereditary peers who had no longer the right to sit in the House of Lords, should be eligible to vote for, and to seek election to, the House of Commons. In the case of a "qualified" peer we think that the initiative should rest with him to apply for a writ of summons to the House of Lords and that he should, alternatively, be free to stand for the House of Commons. We do not, however, consider it advisable that individuals should move about from one House to the other and we suggest, therefore, that no peer who has once sat in the House of Lords should be eligible for election to the House of Commons.

(c) **Lords of Parliament for Life**

We recommend:—

That the Crown should be empowered to appoint Lords of Parliament for Life by peerages limited to the life of the person created a peer;

That the number of Lords of Parliament, excluding the Lords of Appeal in Ordinary, should not exceed the number of hereditary peers qualified to sit in the House of Lords;

That a Lord of Parliament, unless he holds an hereditary peerage of a higher rank, should have the rank of Baron;

That a woman appointed to sit in the House of Lords should hold the rank of Baroness in her own right; and

That a Lord of Parliament should not be eligible for election to the House of Commons.

We have, after careful consideration, rejected the proposal that the holders or past holders of particular posts or offices should be specifically named as eligible for appointment as Lords of Parliament. The acceptance of this honour could scarcely be made compulsory and the result we desire would, we think, be best attained if the Crown were left free to make such appointments as the Government of the day may from time to time advise. Distinguished persons who have not held official positions in the State should be included under this category. A former President of the Trade Union Congress, a Chancellor or Lord Rector of a University or a President of the Royal Society might well be appointed. But such positions are usually held only for short periods, and it would not be desirable that every incumbent of any particular post should be *ex-officio* a member of the Legislature.

We recommend, however:—

That the Prime Minister when advising His Majesty on the appointment of Lords of Parliament should consider the claims of eminent members of the Public Services, of leading personalities in the professions, in the arts and sciences and on both sides in industry, and in agriculture.

If our proposals are accepted, a substantial number of Lords of Parliament from outside the hereditary peerage should be appointed immediately. We do not suggest that these appointments should be specifically political, but it is clearly desirable that due regard should be paid to the interests of those parties at present inadequately represented in the House of Lords. It may be presumed that the Prime Minister would consult the leaders of all political parties when making these first recommendations. In the process of time the effect of our proposals should be to bring about a more balanced distribution of political views in the House of Lords.

(d) **Lords of Appeal in Ordinary**

We do not recommend that any change should be made in the present method by which eminent judges are given life peerages to enable them to sit in the House of Lords.

(e) Lords Spiritual

As long as the Church of England remains an Established Church there is, in our opinion, no reason to make any change in the present representation of the Bishops in the House of Lords. We have considered the possibility of making special provision for the inclusion of dignitaries of other churches and religious communities, but we are agreed that this could be better done by their appointment as Lords of Parliament than by the naming of the holders of specific appointments in any religious body to be members *ex-officio* of the House of Lords.

(f) Other Recommendations

We also recommend:—

(a) that hereditary Scottish peers should be included among the whole body of the hereditary peerage, and should no longer elect their own representatives to sit and vote in the House of Lords.

This recommendation would involve an amendment of the Act of Union but, if our proposals are accepted, there is, in our opinion, no reason for the retention of the present system of election;

(b) that no further hereditary peers should be elected to represent the Irish peerage in the House of Lords; and

(c) that women should be eligible to sit and vote in the House of Lords on the same terms as men (*i.e.*, a woman could claim a writ of summons if she were a peeress in her own right and possessed the necessary qualifications, or if she were created a peeress for life).

It will be observed that our proposals do not entail any definite limit to the size of the House of Lords. Their effect would be to reduce the number of hereditary peers with the right to sit and vote in Parliament and to increase considerably the number of life peers. Life peers would be appointed by the Crown on the advice of the Prime Minister.¹

It may be contended that to leave to the leader of a political party so great a power to influence the composition of the Second Chamber would be a menace to its independence, since this power might be used to "swamp" opposition to some particular measure by the creation of a large number of new peerages. We would point out in answer to this criticism that it has never, in modern times, been a constitutional practice for the Prime Minister to advise the creation of peers in order to force a particular measure through the House of Lords, unless the measure in question has previously been

¹ There is at present a Committee of the Privy Council whose duty it is to examine all recommendations for Honours and to report to His Majesty thereon. It might be an advantage if this Committee were made a statutory body.

submitted to the verdict of the people at a General Election.¹ The passing of the Parliament Act has, we submit, made no change in the convention of the Constitution as it affects the creation of peers for political purposes. Should the Prime Minister decide that he cannot continue to undertake the responsibility of government without the immediate passage of a particular bill which has been delayed under the Parliament Act, his proper course would be to recommend a dissolution. If the bill were passed again in the same form by a new House of Commons, it would be presented once more to the House of Lords. The question of creating peers would arise only if the Lords refused to accept the bill at this stage. Should they refuse, it would then rest with the Prime Minister to decide whether he were justified in advising the Crown to create sufficient peers to secure the immediate passage of the bill.

Any need, however, for the creation of peers for a particular political purpose is, in our opinion, unlikely in the future. It would be even more unlikely if the House of Lords were reconstituted in the manner which we propose. The chief objection to the present House of Lords is that it secures a permanent and overwhelming majority to one political party. The inclusion of a substantial number of life peers and the reduction in the number of hereditary peers sitting and voting should materially strengthen the representation of other political parties in the House of Lords, and make it far more responsive to changes in public opinion. An assembly, so constituted, which has no absolute power of veto and has accepted its rôle as a revising and advisory body, would not easily be tempted to act obstructively. A Government which has the support of a majority in the House of Commons, and knows that it can in any case carry its legislative programme into effect within the prescribed period of the

¹ This view of the Constitution was accepted by the Crown and by the Prime Minister when the Parliament Act was passed.

cf. Memorandum presented to Mr. Asquith by Mr. Vaughan Nash, his private secretary:—

"Lord Knollys asked me to see him this afternoon, and he began by saying that the King had come to the conclusion that he would not be justified in creating peers (say 300) until after a second General Election and that he, Lord K., thought you should know this."

See J. A. Spender and Cyril Asquith: "The Life of Lord Oxford and Asquith," Vol. I, p. 261.

Mr. Asquith was severely criticized at the time because he was understood to have obtained from the King *before* the second General Election in 1910, a contingent promise that he would create sufficient peers to ensure the passing of the Parliament Bill, if it were rejected by the House of Lords after being passed in a newly-elected House of Commons. But Mr. Asquith never questioned the constitutional principle that peers should not be created unless the Parliament Bill had been before the country at a General Election and had been passed by the new House of Commons. He advised the King, therefore, to dissolve Parliament on this issue although a General Election had taken place within the last twelve months.

See "Spender and Asquith", op. cit., Vol. I, pp. 318-9.

Parliament Act is not likely to resort to the expedient of recommending the Crown to create peers in order to force a bill through the House of Lords in a still shorter space of time.

It would, in our opinion, be for other reasons regrettable if the advantages of flexibility were lost by fixing a definite limit to the membership of the House of Lords. In a legislative assembly mainly intended for the work of revision and advice, and constituted in the manner which we propose, a regular attendance of members, such as for political reasons is essential in the House of Commons, would be neither necessary nor, indeed, possible. Many of the peers, especially the life peers, would be actively engaged in public service of one kind or another, or occupied in business or professional duties, which would prevent their daily attendance in Parliament. Moreover, a body whose members have the right to sit for life must necessarily contain a high proportion of elderly persons, and for this reason also it is desirable that there should be no definite limitation of numbers. The normal work of the House of Lords is to-day effectively transacted by a nucleus of its members; we expect that in the reformed assembly this nucleus would be larger and that specialists in particular subjects would make a point of attending the House, and of serving on its committees when such subjects were under discussion.

The House of Lords has during centuries of constitutional experience evolved a procedure unique in the history of legislative assemblies. This procedure makes possible a freer and often a more objective discussion of long range problems of national and international importance than is possible in the House of Commons under modern conditions of party politics. Much valuable work is also done by Select Committees of the House, especially in examining technical matters arising from private and public bills.

The adoption of our recommendations for the reform of the House of Lords would broaden its political outlook and so enable better use to be made of the accumulated knowledge and experience of its members in the framing of policy and in the initiation and revision of public bills. An assembly which was no longer predominantly of one political complexion and the majority of whose members were qualified by experience of public affairs would be well fitted to act as an expert advisory body or Council of State.

PART THREE

“There are crises in the fortunes of an ancient people which impel them to examine the nature of the institutions which have gradually sprung up among them.” BENJAMIN DISRAELI, 1835.

VIII. THE CABINET AND THE ORGANIZATION OF STATE DEPARTMENTS

The problem of executive organization has recently been much discussed in Parliament and in the Press. This discussion has led to a revival of interest in the Report of Lord Haldane's Committee¹ which was appointed to investigate the problem of administrative reform at the conclusion of the last war. We have kept this Report before us in the course of our inquiry because many of its recommendations are, we believe, still applicable at the present time. The details of any scheme of reform can be worked out only by those who have intimate knowledge and recent experience of the practical difficulties of administration. We welcome, therefore, the decision of the late Coalition Government to appoint a Cabinet Committee to consider proposals for the reform of the Central Executive and confine our conclusions to the statement of a few general principles.

Two main questions are involved. The first concerns the Cabinet as the supreme executive organ. The second concerns the interrelation and co-ordination of a multiplicity—and probably a growing multiplicity—of departments. The former relates to the supreme control of government; the latter relates to the machinery of government. It is clear that the two problems are interrelated; it is equally clear that they are distinct in essence. It is possible to conceive of a highly efficient Central Executive, inadequately served by a cumbersome and inefficient departmental machinery, just as it is possible to imagine a highly efficient departmental machinery under the control of an inefficient Central Executive.

(i) The Cabinet

The Cabinet, in the words of the Haldane Report, is the “mainspring of the mechanism of Government”. The efficiency of government must depend upon the energy, judgment and imagination which the Prime Minister and his colleagues can bring to bear upon their twofold task—the direction of policy and the administrative supervision of the departments of State. The Report contains a summary of the conditions of efficient Cabinet organization. The main functions of the Cabinet are described as follows:—

¹Report of the Machinery of Government Committee, 1918, Cmd. 9230.

- (a) the final determination of the policy to be submitted to Parliament;
- (b) the supreme control of the national Executive in accordance with the policy prescribed by Parliament; and
- (c) the continuous co-ordination and determination of the activities of the several departments of State.

In order to ensure the efficient performance of these tasks, the Haldane Committee recommended that the Cabinet should consist of ten, or at most twelve, members; that it should meet frequently; that it should be supplied in the most convenient form with all the information and material necessary to enable it to arrive at expeditious decisions, and that it should have a systematic method of securing that its decisions are effectively carried out by the several departments of Government. Ministers who are not members of the Cabinet should be personally consulted on all matters likely to affect the work of their departments.

During the twenty years after the publication of the Haldane Report no effective steps were taken to implement the first, and in some ways the most important, of these recommendations. The average size of Cabinets from 1919 to 1939 was more than twenty. So large a Cabinet cannot maintain the character of an intimate and closely knit body of Ministers jointly participating in the supreme control of national affairs. The large Cabinets to which we had become accustomed before the war were able to act with some degree of executive energy only because the Prime Minister, in arriving at decisions upon crucial matters of policy, could always rely upon informal discussions with those of his colleagues who held key positions in the Government or who, for other reasons, enjoyed his special trust. Should the Cabinet itself cease to be an effective policy-forming body, this practice is likely to go further and to lead to the formation of an unofficial "inner Cabinet". Strong Prime Ministers have, in the interests of speed and efficiency, occasionally resorted to this expedient at the risk of incurring the resentment of those Ministers who, although officially members of the Cabinet, found themselves excluded from the inner circle of the Prime Minister's advisers. A Cabinet in these circumstances is transformed into a board of departmental Ministers, summoned to ratify decisions arrived at by other means. The machinery of government becomes more cumbersome and Cabinet responsibility ceases to have any real meaning.

During the years of war from 1914-1918, and again from 1939-1945, it became evident that the peace-time system of a large Cabinet of departmental Ministers, meeting under the chairmanship of the Prime Minister, could not provide the central direction imperative for the effective prosecution of war. On both occasions an interim solution was found in the establishment of a small War Cabinet.

The composition of a peace-time Cabinet must obviously differ from that of a War Cabinet, but it is, in our opinion, essential that the need for smaller Cabinets should be accepted as a necessary element of constitutional reform. The pursuit of a strong and consistent foreign policy, the maintenance of an efficient defence organization and the planning of a coherent financial, economic and social policy, will demand no less concentrated directive energy than the tasks of war. But it is clear that with the growth of government activity and the consequent increase in the number of departments, the size of a peace-time Cabinet will, unless an entirely new departure is made, tend to increase rather than to diminish. Unless we are to resign ourselves to a cumbersome, unwieldy and, therefore, inefficient Executive, we must discard the practice by which every "important" Minister considers himself justified in claiming the dignity of "Cabinet rank". We must rid ourselves of the notion that the omission of certain Ministers from membership of the Cabinet involves any disparagement of the work of their departments.

A permanent reduction in the size of the Cabinet will, in our opinion, prove unworkable unless effective machinery is established for co-ordinating the work of allied departments at the ministerial level, whether the heads of departments are in the Cabinet or not. It would be impossible, if the Cabinet were the only instrument of co-ordination, to exclude any important departmental Minister, except in the few cases where the work of a particular department is almost entirely self-contained. This contention is borne out by the experience of war-time administration. The institution of the War Cabinet was followed by the extension of old methods of departmental co-ordination and the improvisation of new ones. A more comprehensive and systematic machinery for the attainment of this purpose is, we consider, essential, quite apart from the question of Cabinet organization. The subject is discussed below from the point of view of administrative reform. We refer to it here only in so far as it affects the composition of the Cabinet. The Report of the Haldane Committee is based on the assumption that the two problems are intimately connected. The failure to carry out the recommendation for smaller Cabinets was, in our opinion, a direct result of the fact that no steps were taken to implement that part of the Report which deals with the all important question of departmental organization. There should be no inherent difficulty, once this problem has been successfully tackled, in limiting the Cabinet to about a dozen members.

It is neither necessary nor desirable to lay down any specific rules for the composition of the Cabinet. It is a time-honoured constitutional principle that the Prime Minister should be free to exercise his discretion in the choice of his Cabinet colleagues. He must assess the political influence and administrative ability of the leading members of his party, but his first object should be to secure

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the services of those whom he considers wise in council. The recommendations which we make for departmental organization are intended to increase rather than to restrict the freedom of the Prime Minister in this respect.

We recommend, therefore, that departments should be grouped under the general supervision of Ministers responsible for the co-ordination of policy and administration within each group. This should make possible a drastic reduction in the size of the Cabinet without loss of administrative efficiency and control. The number of co-ordinating Ministers would not be large, and it might well be desirable that, in addition to the Prime Minister, the Cabinet should contain one or two holders of sinecure offices, such as the Lord President of the Council and the Lord Privy Seal. These "Ministers without Portfolio" would be free to undertake special tasks which may from time to time arise. It may be expected that the Ministers responsible for the co-ordination of the more important departments would be members of the Cabinet. Much would obviously depend upon the actual system of departmental grouping adopted. The Chancellor of the Exchequer would be an indispensable member of a peace-time Cabinet, even though the Treasury might not be included in any new departmental "group". Whatever system were introduced for the correlation of foreign affairs, defence and imperial policy, the presence of the Foreign Secretary would be essential. It would not be necessary to include in the Cabinet a Minister responsible for departments, such as the Post Office and the Ministry of Works and Buildings, whose function is not to initiate policy but to provide a service. But some or all of these ministries might be included in the same group as the Home Office and those departments which are concerned with social policy. In this case the co-ordinating Minister would presumably be a member of the Cabinet. In all these matters the utmost flexibility is desirable. We are, however, in agreement with the Haldane Committee in recommending that departmental Ministers, not members of the Cabinet, should attend its meetings and be personally consulted when important matters affecting their departments are under discussion. Legislative proposals emanating from any particular department should be sponsored before the Cabinet by the Minister directly responsible for carrying them into effect.

A Cabinet organized on these lines would be a compact and, therefore, a more effective, body for the determination of policy. The institution of a rational system of departmental organization would simplify the tasks of administrative supervision and control. The co-ordinating Ministers would be free from the day-to-day details of departmental administration, but they would be intimately concerned with administration at the highest level. The connection between policy and administration, therefore, would be maintained, even though the majority of departmental Ministers might not be

members of the Cabinet. This connection is, we consider, essential to every sound system of statecraft.

(2) Departmental Organization

Any attempt to improve the administrative machinery of government involves the solution of two interconnected problems; first, the reorganization of departments and the rearrangement of their work on functional lines, so that a logical distribution of business may be secured and overlapping and division of responsibility prevented; secondly, the establishment of an efficient system of co-ordination between departments, so that effort may be convergent and not dispersed, so that action may be co-operative and not competitive, so that initiative may be concentrated and not diffuse. In this way only can reasonably rapid and effective results be attained.

The main contention of the Haldane Report—that division of work between departments should be in accordance with the nature of the service performed—is no longer open to dispute. It is noteworthy, however, that the Report envisaged not only better designed ministries, with functions more logically allocated, but also, where appropriate, the grouping of departments with cognate or correlative functions. There can, we think, be no doubt that the division of the tasks of government into a limited number of main functional divisions is the only basis for an efficient system of inter-departmental organization.

No executive authority can be expected to co-ordinate and to control directly as many as twenty or thirty separate departments with any hope of maximum efficiency of action. It is essential, therefore, for the effective working of any administrative machine that responsibility should be so allocated and divided that the Central Executive shall not be compelled to deal directly with an excessive number of immediate subordinates.

But co-ordination at the highest, that is at the ministerial level, is essentially different from, and incomparably more effective than, co-ordination at any other level. The relation between departments within each of the main functional divisions of Government should, therefore, be so organized that the Cabinet can in each case act through the agency of a single Minister charged with the co-ordination of a group of departmental Ministers.

The idea underlying these proposals is merely the application to the political sphere of principles which are accepted as axiomatic in every other type of large-scale organization. We are not aware that their soundness has been questioned from the point of view of administrative efficiency. Nevertheless, no consistent attempt has hitherto been made to reform the central institutions of government in the light of practical experience which has proved their efficacy in every other field of activity. In our opinion a comprehensive reform,

both in the organization of individual departments and in the methods of co-ordination between departments is necessary, in order to promote the efficient and speedy execution of clearly defined and consistent policies.

The functional division of the tasks of Government has proved easier to affirm in principle than to attain in practice. The number of departments has steadily increased, but their multiplication has not prevented the overlapping and confusion which were so severely condemned by the Haldane Committee. It may, in fact, be contended that the defects of our present administrative machinery are very largely due to the ill-considered institution of new ministries. Successive Governments, faced with the pressing need for the extension of old, or for the provision of new services, have been accustomed to meet the immediate difficulty by the establishment of a separate department without undertaking any systematic review of the effect which such a course of action may have upon the administrative system as a whole.

It may be presumed that it will be possible in the future to dispense with the services of some, though by no means all, of the new departments established since 1939. On the other hand, it may be expected that the work of those departments concerned with the supervision of industry, with the provision of social services, with education, housing and transport will be considerably extended. It would be disastrous if attempts at reconstruction were confined to the mere pruning away of redundant departments and the haphazard extension of others. It may be possible in some instances to amalgamate existing ministries, in others it may be necessary to transfer responsibility from one department to another or even to concentrate in a new department services which are now distributed among a number of different authorities. A new training branch under the Board of Education, for example, might be established to take charge of vocational training schemes which are at present administered by the Ministry of Agriculture and the Ministry of Labour. The adoption of proposals for a unified system of social insurance has led to the establishment of a new department in which will be concentrated the administration of all forms of State-aided social insurance and national assistance. In any case it is clear that, whatever decisions may be arrived at in the immediate future, further adjustments will become necessary to provide for inevitable changes in the weight and emphasis of government. The organization of the Central Executive departments should, therefore, be subject to periodic review.

The re-allocation of functions between individual departments may in some cases lead to an actual reduction in the number of separate ministries, even though the responsibilities of government continue to expand. It is evident, however, that in a complex governmental machine the number of administrative units cannot be reduced

beyond a certain point. During the war the need for an effective system of inter-departmental organization was recognized in principle by the establishment of the Ministries of Defence, Production and Reconstruction, but the powers of the Ministers of Production and Reconstruction were not sufficient to produce satisfactory results.¹ With these exceptions no permanent machinery apart from the Cabinet itself, has so far existed for co-ordination between heads of departments. Inter-departmental agreement is constantly achieved by informal and personal contacts, and Cabinet committees are frequently appointed to consider questions of policy in which more than one department is interested. These committees, however, usually deal with particular legislative proposals and do not exercise any permanent control over the departments concerned. The Home Affairs Committee, a Standing Committee of the Cabinet, confines its activities to the examination of draft legislation and public orders. It is assisted by the Parliamentary Counsel to the Treasury and is concerned almost entirely with technical and legal matters. Since the outbreak of war a special Committee has been appointed under the chairmanship of the Lord President of the Council; it consists of a nucleus of permanent members, the Ministers or Under-Secretaries of the departments concerned in any particular issue attend *ad hoc* and permanent officials may also be present. Useful as this procedure is, it is clear that it does not solve the essential problem, which is not to provide machinery for the settlement of difficulties once they have arisen but, rather, to prevent duplication and overlapping by the correlation of policy at an early stage.

In administration, as distinct from policy, the lack of any other method of co-ordination has led to an increase of Treasury activity. The Treasury exercises control by virtue of its authority in financial matters and also as the department responsible for the general supervision of establishments. Much valuable work is done in promoting administrative efficiency and economy, but this activity is, for the most part, divorced from direct ministerial control. It has, apparently, become a practice for the Permanent Secretary to the Treasury to summon inter-departmental committees consisting entirely of Civil Servants. These committees are ostensibly concerned with purely administrative matters, but when important issues are at stake it is extremely difficult to distinguish between administration and policy. There is, in our opinion, a danger that this practice, if it is allowed to develop further, might seriously infringe the principle of ministerial responsibility and parliamentary control. It must, moreover, be remembered that co-ordination between officials cannot be as effective as co-ordination between the political heads of departments, who alone have the ultimate power of decision.

¹ The position of the Committee of Imperial Defence, which is a Standing Cabinet Committee, is discussed below. See page 116.

A vital link in the administrative chain is at present lacking. The grouping of departments under the general supervision of co-ordinating Ministers, which we have already recommended as a necessary basis for the institution of smaller Cabinets, is therefore no less essential from the point of view of administrative efficiency. We consider that the presiding Ministers should exercise their functions through standing ministerial conferences or committees. It is essential, however, that they should not be mere chairmen, but should be definitely responsible for the efficient co-ordination of the departments under their control.

The experience of the Ministries of Production and Reconstruction has shown that a co-ordinating Minister whose powers are not clearly defined and who can rely only on the services of his own official staff, is in a very weak position in dealing with a number of strongly organized departments. In the absence of effective action at the ministerial level officials are naturally tempted to solve their problems as best they can. These difficulties would, we think, be overcome if the ministerial committees were established as permanent bodies and if the ultimate authority of the presiding Ministers were clearly recognized. It is, moreover, important that the ministerial committees, if they are to act speedily and effectively, should not become involved in the laborious investigation of departmental controversies. It has recently become a not uncommon practice to appoint inter-departmental committees of Civil Servants for the preliminary investigation of matters that have been referred to at *ad hoc* Cabinet committee. A report is prepared giving a summary of the outstanding issues and of the information available in the different departments. This procedure is not open to the objections to which we have referred, because the Civil Service committees are purely advisory and their reports are immediately submitted to the ministerial body with whom the decision rests. Some machinery of this kind might, we think, be useful in assisting the work of the permanent ministerial committees.

It would be beyond the scope of our inquiry to attempt any detailed definition of the main functional divisions of government on the lines of the Haldane Report.¹ In some cases the divisions suggested by the Report may be still applicable to-day. It can, for instance, be assumed that finance should constitute a separate department of government, and that the close co-operation between the Service departments now secured by the establishment of the Ministry of Defence should be preserved. In certain instances, however, a different classification will doubtless be necessary. The examples which we give are intended as illustrations only and not as recommendations.

¹ The Haldane Report suggested that the work of Government Departments could be divided into ten main functional divisions, *i.e.*, I. Finance; II. National Defence; III. External Affairs; IV. Research and Information; V. Production (including Agriculture, Forestry and Fisheries), Transport and Commerce; VI. Employment; VII. Supplies; VIII. Education; IX. Health; X. Justice.

The Haldane Committee recommended separate divisions for Education, Employment, Health and Production (including Agriculture, Forestry and Fisheries, Transport and Commerce). In present circumstances a strong case can be made for the establishment of a separate Development group to include Works and Buildings, Housing and Town and Country Planning, and also for a Social Service group to include Social Insurance, Education and Health. The Haldane Committee recommended the grouping together of departments concerned with external affairs in order to ensure the effective correlation of Foreign, Imperial and Colonial policy. As things are to-day it would appear no less essential to secure close association between the Foreign Office and the departments responsible for economic policy.¹ Co-operation of this kind may involve considerable changes in the organization and functions of the Board of Trade and of the Department of Overseas Trade. The re-grouping of departments on broad functional lines will often cut across existing administrative divisions and can, therefore, be undertaken only in conjunction with the reorganization of individual departments.

We are fully aware that no system of departmental grouping can be entirely comprehensive, and that wherever the functional divisions are drawn problems will constantly arise in which more than one group is concerned.² All such questions would be decided by the Cabinet. The task should be greatly simplified by the fact that the Cabinet would deal not with a large number of separate heads of departments but with a few presiding Ministers, competent to state the views of a limited number of organized departmental groups. Major questions of policy would presumably be settled in Cabinet, although the working out of details might be referred to special ministerial committees. Purely administrative issues would be referred to inter-departmental committees. We consider, however, that such committees, even though they may consist predominantly of Civil Servants, should whenever possible meet under the chairmanship of a member of the Government and not of a Civil Servant.

In a later section of this Report we recommend that control of establishments should be transferred from the Treasury to a separate department which should be responsible for the recruitment and general supervision of the Civil Service.³ Our present proposals are, we think, in keeping with this recommendation since they would make it possible for the Treasury to confine its activities to purely financial matters. It would be the responsibility of the co-ordinating Ministers,

¹See below, page 128.

²The problem of co-ordination between Defence and Foreign Policy is discussed in a separate section. See page 112, et seq.

³See below, page 74, et seq.

in co-operation with the departmental Ministers, to achieve the highest possible standard of administrative efficiency within each group of departments, and also to draw the attention of the Cabinet to any question of administration requiring co-ordination between the different departmental groups. In technical matters of business organization Ministers would be able to draw upon the advice and experience of the department responsible for the general supervision of establishments.

We do not consider that any substantial change should be made in the present system of financial administration. Financial control should be exercised by an independent department not directly interested in expenditure. The Estimates would be prepared, as they are now, by the individual departments and submitted to the Treasury for approval. The departmental Ministers would defend their own Estimates in Parliament. "Treasury sanction" would still be required for any expenditure not prescribed by the Estimates. Administrative efficiency is a necessary condition of economy, and the task of the Treasury in exercising a strict financial scrutiny would be facilitated by the introduction of improved methods of executive organization. Differences of policy involving financial issues would be settled in the first instance by the presiding Ministers, and the Cabinet would deal with the competing claims of the different departmental groups.

It may be suggested that reform on these lines might make it difficult for Parliament to distinguish ministerial responsibility for the general conduct of policy and administration in a group of departments from the responsibility of the individual departmental Ministers. In normal circumstances we do not think that there is any danger of this kind, as we are confident that Parliament would find no difficulty in apportioning the responsibility for the work of their departments between the respective Ministers; but, if any uncertainty were to arise, the Minister in charge of a group of departments would presumably be called upon to come to the assistance of any departmental Minister whose administration was called in question.

IX. THE CIVIL SERVICE

"Good officers well selected for a length of time, will create suitable traditions of administration which will gradually harden into institutions."
THE MARQUESS OF SALISBURY, 1878.

The success of parliamentary institutions in this country is in no small measure due to the ability, personal integrity and scrupulous attention to duty of the Civil Service whose task it is to carry into effect the decisions of Parliament. We do not consider that there has been any falling-off in individual efficiency during recent years, and in the higher grades at least the general level of ability is probably

above the average of the best private firms. This high standard of public service can be maintained only by strict adherence to certain principles which, although of comparatively recent origin, are no less part of our constitutional heritage than the more venerable traditions on which are founded the liberties of the subject and the authority of Parliament. Ministerial responsibility and official anonymity, the exclusion of the Civil Service from all political activity, an exacting disciplinary code and a system of recruitment by merit which prevents patronage and personal influence; these are the conditions which have fostered the qualities of loyalty, impartiality and incorruptibility.

It has become a commonplace to-day, while recognizing the merits to which we refer, to accuse the Civil Service of cumbersome, bureaucratic methods, slowness in decision, lack of initiative and unwillingness to take responsibility. These defects, in so far as they do exist, are to a certain extent the result of the conditions under which the government service operates. Parliament rightly exercises a careful scrutiny over the expenditure of public money, and individual Members of Parliament show untiring vigilance in protecting the citizen against any injustice or inequality of treatment on the part of government departments. It follows that a much closer system of accounting is necessary than in private enterprise and this inevitably involves elaborate methods of check and counter-check. In its relations with private citizens it is essential that the Civil Service should observe complete objectivity. A decision made in any particular case may establish a precedent, and the public is naturally and rightly intolerant of any suspicion of partiality. It follows that the individual decisions of particular officers must be related to general principles uniformly applied.

It is evident, however, that the most competent and efficient administrative machine will need constant improvement and readjustment in the face of changing circumstances. Far reaching reforms have been accomplished during the last seventy years, but it is essential that the problem should be attacked once more with energy and foresight, if the Civil Service is to keep pace with the accelerated tempo of social and economic development.

(i) Organization

The most important advance in administrative organization in recent times has been the development of a more unified Civil Service, with a common system of recruitment and uniform rules and conditions of service. In the old days each department recruited its own staff independently; there were no common standards of employment, and only on rare occasions was there any interchange of staff between departments. There can be no doubt that the individual Civil Servant has gained by the fact that his whole career need not be limited to the particular department to which he is first appointed; and this broad-

ening of opportunity for the individual, combined with the general application of more businesslike methods, has done much to raise the level of administrative efficiency. These results were achieved by the establishment of an independent body, the Civil Service Commission, which is responsible for enlisting the higher grades in the Home departments, and by the expansion of the supervisory and co-ordinating functions of the Treasury. Recruitment and training are discussed below. The major problem of organization with which we are here concerned is to maintain the authority of Ministers within their own departments, while at the same time providing for some central organ of control to supervise the Service as a whole and to insist on economy and efficiency in staffing.

As things are to-day, the Treasury has authority to lay down the rules of service and to regulate rates of pay, pensions and superannuation.¹ As the department responsible for the supervision of the Estimates, it exercises a close and meticulous scrutiny over the staffing of all government departments, and no increase in expenditure on staff is possible without Treasury sanction. In order to ensure the efficient exercise of these functions, a separate Establishments Division was instituted at the Treasury in 1919 and Establishments Officers were appointed in all the major departments²; since the reorganization of the Treasury in 1932 the Supply and Establishments Divisions are no longer entirely separate. Within each department the Minister is responsible for the appointment and promotion of individual officers, and he normally acts on the advice of the Permanent Head of the department; but for the senior posts the consent of the Prime Minister is required, and it is the duty of the Secretary to the Treasury to advise the Prime Minister and the departmental Minister upon such appointments.³ The Treasury holds a key position at the centre of the administrative system and it is able, therefore, to a certain extent, to co-ordinate the activities of other departments. Recently much valuable work has been done by the Organization and Methods Divisions in sponsoring modern methods of business technique in those departments in which they can be usefully employed.⁴

¹ Order in Council Mu 1976, July 22nd, 1920, "The Treasury may make regulations for controlling the conduct of His Majesty's Civil Establishments and providing for the classification, remuneration and other conditions of service of all persons employed therein, whether permanently or temporarily."

² These reforms were recommended by the Haldane Committee on the Machinery of Government and by the Bradbury Committee on the Organization and Staffing of Government Offices. Final Report, 21st February, 1919.

³ This applies to Permanent Heads of Departments, their Deputies, Principal Establishment Officers and Principal Financial Officers.

⁴ For an interesting account of the Organization and Methods Division of the Treasury see the Sixteenth Report from the Select Committee on National Expenditure, Session 1941 to 1942. In 1942 an advisory panel of business men was appointed to supervise the work of O. and M. Division.

It has followed as a consequence that the Treasury has come to be regarded as the senior department, and by some mysterious process the Permanent Secretary has acquired the title of "Head of the Civil Service". This increase of authority on the part of the Treasury has recently led to criticism on the grounds that the responsibility of Ministers for the staffing and discipline of their own departments is undermined, and that the Treasury has gained an undue influence in the affairs of other departments.

In a debate in the House of Lords on November 25th, 1942, the Lord Chancellor stated on behalf of the Government (1) that higher appointments in the Civil Service are made by the departmental Minister concerned with the consent of the Prime Minister and (2) that the Head of the Civil Service is not entitled to interfere in policy.¹ While welcoming this statement of principle we none the less consider that the time has come when a new departure is necessary in order to ensure a clear distinction between financial and administrative functions. We have come to this conclusion in spite of the fact that in many material respects our recommendations differ from the views expressed in the report on the Civil Service presented to Parliament by the Select Committee on National Expenditure.²

It has in recent years become usual to fill the higher posts in the Civil Service not by internal promotion but by transfer from other departments. There is, we think, much to be gained by this practice in so far as it prevents stagnation and encourages width of experience among higher Civil Servants, but it is advisable, in our opinion, that such transfers should not take place too late in an official's career. The Permanent Head of a department is the Minister's adviser, and it is important that he should know his staff and have a more than cursory experience of the work of his department.

We do not consider that in making these higher appointments there is any evidence of bias in favour of Treasury officials. We agree, however, with the Report of the Select Committee that the influence of the Permanent Secretary to the Treasury, "whose eye ranges over the length and breadth of the Civil Service must often be decisive".³ We are not concerned to suggest that any particular holder of that office has failed to act with judgment and discretion, but we do consider that some change is necessary in the present system of making these appointments. Lord Hankey, in the debate in the House of Lords to which we have already referred, drew attention to the constitutional principle that "all ranks within a department should be

¹ See "Hansard", House of Lords Debate, 25th November, 1942.

² Sixteenth Report from the Select Committee on National Expenditure. Session 1941-1942. Organization and Control of the Civil Service.

³ See Sixteenth Report from the Select Committee on National Expenditure. Session 1941-1942, page 25.

free to support the policy of their Minister even against the Treasury".¹ This principle is scarcely compatible with the present arrangement whereby Civil Servants may, rightly or wrongly, be led to suppose that loyalty to their own Minister might have an adverse effect on their subsequent careers. We consider that a Selection Board should be established to make recommendations for the higher appointments in the Civil Service. The final authority of the departmental Minister and the Prime Minister would remain unaffected.

We have already referred to the unfortunate consequences which may follow from the practice whereby the Secretary to the Treasury summons inter-departmental committees and often controls their membership.² It is a natural consequence of such a system that the department whose first concern is economy should seek to obtain the appointment to important committees of officials who are known to be docile to Treasury influence. The remedy should be sought by maintaining the direct responsibility of Ministers for the activities of all important inter-departmental committees. When a committee of Civil Servants is appointed to advise a ministerial committee the officials representing each department should, of course, be appointed by the Minister in charge of that department and not by the Permanent Secretary to the Treasury.

The Report of the Select Committee on National Expenditure makes a strong case for the retention of control over establishments by the Treasury, on the ground that financial control and control of establishments are inseparable, and that the interests of economy and sound administration demand that both should be concentrated in the department responsible for finance. In our opinion, however, the separation within the Treasury which the Report suggests is calculated to cause confusion and division of responsibility and is, moreover, so far reaching that the advantages of combining the two, such as they are, would in any case be lost. The Report proposes that the supervision of establishments should be entrusted to an entirely separate section, as was the case between 1919 and 1932; that the Prime Minister, as First Lord of the Treasury, should be the nominal head of this sub-department, and that a new Parliamentary Secretary be appointed to do the day-to-day work and to deal with parliamentary business affecting the Civil Service. The Permanent Secretary would, however, remain the unifying link between these otherwise quite separate sections of the Treasury.

For this union in separation there is, we think, little to be said. The Treasury, it appears, would be divided into two halves, one responsible to the Chancellor of the Exchequer and the other to the Prime Minister. In practice, the Prime Minister would not have

¹ See "Hansard", House of Lords Debate 25th November, 1942.

² See above, page 72.

time to attend to the detailed work involved, and, presumably, it is intended that the new Parliamentary Secretary should control the establishment section of the Treasury on his behalf and that he should not be subject to the authority of the Chancellor of the Exchequer. Still more difficult would be the position of the Permanent Secretary, whose loyalty would be divided between the Chancellor and the new Parliamentary Secretary acting on behalf of the Prime Minister. There is, moreover, a danger, if these proposals were adopted, that the Permanent Secretary would be too much taken up with the work of the Establishment section. This criticism has been made of the existing system¹, but it would be far more potent, if the separation within the Treasury were carried further. The Permanent Secretary to the Treasury should be the chief official adviser to the Chancellor of the Exchequer, and this surely is enough for any one man.

The Report of the Select Committee does not, in our opinion, meet the major criticism; that before the war the influence of the Treasury had become preponderant and that in the Service departments the effect was disastrous in that it prevented these departments from pressing effectively the need for increased expenditure on national defence. The ultimate responsibility undoubtedly rested with Parliament, and with the public who demanded at one and the same time reduction in taxation and an increase in social services. The result was constant pressure on the departments for economy even at the expense of efficiency. We consider, however, that these events do reveal a serious defect in the machinery of government. The prime function of the Treasury should be to insist upon careful finance and strict economy throughout the whole administrative system. But each department, whether a Service or an Administrative department, should stand up for its own efficiency. Efficiency may demand more than careful finance can afford; in this event the matter must be settled between the department responsible for finance and the spending department, but this should be done on equal terms, with the final decision in the hands of the Cabinet.

We do not intend in any way to disparage the work done by the Treasury in supervising establishments or to suggest that the advantages of centralized administrative control should be sacrificed in favour of a narrow departmentalism. The whole question of the staffing and organization of the Civil Service, however, does appear to us to be matter of such importance as to merit the institution of a separate Ministry. We suggest, therefore, that the Civil Service Commission should be enlarged and reconstituted as a government department to which the establishments work of the Treasury should be transferred. At the head of this department there should be a Minister responsible to Parliament, but he need not, in our opinion, be a member of the Cabinet.

¹ See "Hansard", House of Lords Debate, November, 1942.

The Civil Service Commission in its enlarged form would be responsible for recruitment and for the regulation of conditions of employment and remuneration, in the Home departments, and its assistance would also be available for the recruitment of the foreign Service.¹ Should differences of policy arise on financial matters, such as rates of pay, pensions, etc., these would be settled between the Minister and the Chancellor of the Exchequer under the ultimate authority of the Cabinet. The new Minister, or his deputy, should, we consider, preside over the regular meetings of Establishment Officers which are at present held under the auspices of the Treasury. He and his permanent advisers would be intimately concerned with the needs and interests of the Civil Service, and it would be their task to expand and to develop the work done by the Treasury in encouraging the scientific study of administrative technique and office management. The departmental Ministers and co-ordinating Ministers, whose functions are discussed above, would be responsible for the administrative efficiency of their own services, but they would be able to rely on the advice and assistance of the Civil Service Department in ensuring that the ability and energy of officers in all grades of the Service were used to the best advantage. We do not expect that a reform of this nature, calculated to promote true efficiency, would run counter to the interests of economy which it is the function of the Treasury to uphold. We recommend:—

(1) that the title of "Head of the Civil Service" should be abolished, and that the general control of the Civil Service should be vested in a new department;

(2) that the functions now exercised by the Civil Service Commission should be transferred to this new department, together with the work done by the Establishments Branch of the Treasury, and that the administration of the Civil Service as a whole should be entrusted to it;

(3) that at the head of this department there should be a Minister of the Crown, who should be responsible for all Civil Service matters; that he should be a member of one or other House of Parliament, but not necessarily a member of the Cabinet;

(4) that appointments to the higher posts in the Civil Service should be made on the responsibility of the Minister in charge of the department concerned, with the approval of the Prime Minister;

(5) that, in order to afford the Minister in charge of the department and the Prime Minister the necessary information and advice for making such appointments, a Selection Board

¹See below, page 86.

should be set up, the task of which would be to make recommendations to the Minister and Prime Minister;

(6) that this Selection Board should be presided over by the Minister responsible for the Civil Service Department and that it should always include a representative, either the Minister or the Parliamentary Secretary, of the department concerned.

2. RECRUITMENT, TRAINING AND CONDITIONS OF SERVICE

(a) Recruitment

We do not recommend any change in the system of recruitment for the Civil Service as a whole. But the new demands which have resulted from the extended activities of government do, in our opinion, necessitate some reconsideration of the methods of recruitment and training for the administrative grade, from whose ranks are drawn the chief professional advisers of the Government and its chief executive officers. Except where otherwise stated, our recommendations relate only to the administrative class.

The introduction of the competitive system of entry was one of the major reforms of the nineteenth century, and a similar system has been adopted in other countries, notably in the U.S.A., in order to eliminate patronage and to secure the selection of the ablest candidates. We do not share the views of those critics who appear to think that a higher education is a handicap to the conduct of practical affairs. An official in the administrative class of the Civil Service should base his practical experience on the background of a liberal education, and he should have shown himself capable of reaching the standard of a good honours degree.

We do not consider that the retention of the competitive examination as the main means of entry to the Civil Service is likely, as is sometimes contended, to restrict the service to any particular social class. The number of young men and women at the Universities who have been educated in secondary schools is already large; of these, a considerable proportion have received their first education in elementary schools, and this proportion is likely to increase. It is all important that the standards demanded of our public servants should not be lowered, and we must rely upon improvements in the country's educational system to widen the social range from which the Service is drawn.

Academic distinction, nevertheless, is not the only quality necessary for an efficient Civil Servant. It may be that the direct impact of government on the day to day life of the people will diminish in the post-war years, but it will certainly remain considerable. In those branches of administration which affect the ordinary work of the community, activity, initiative, originality of method and speed of

decision are of great importance. Industry can function tolerably well under almost any system of indirect control, if that system is applied intelligently, decisively and without circumlocution. But even the most modest form of control will paralyse the country's industry and trade, if it is exercised by officials who are incapable of rapid decision and unwilling to take responsibility.

The Civil Service Commissioners have shown themselves fully aware of recent improvements in the technique of examining and considerable importance is attached to the interview or *viva voce* examination. During the war the Ministry of Labour and National Service in filling temporary posts in the administrative grade acted on the advice of a special Selection Board which met under the chairmanship of the Chief Civil Service Commissioner. It is to be expected that the experience gained by this Board will be put to good purpose when the full system of examination is restored. An interview of this kind conducted by experienced examiners, who have practical knowledge of the needs of the Service is, we think, essential in assessing the character and personality of candidates who, although they may have high academic qualifications, may not by temperament be well equipped for administrative work. It may also play a useful part in advising candidates in the choice of that branch of the Service for which they are most suitable. We recommend, therefore, that the Civil Service Commissioners should continue to exercise their present functions within the new Civil Service Department; that they should be free to vary their methods in the light of experience and to use their own discretion in deciding the relative importance to be attached to the interview and to the written examination.

In our view, entry into the administrative grade through this machinery should be followed by a period of probationary service. We are aware that at present there is a nominal period of probation, but this has become little more than a formality. We consider that the probationary period should be made a reality, that it should be extended to three years, and that the qualifications for permanent appointment should be not negative but positive. Recruits for the administrative class should not be permanently established almost as a matter of course, but only when they have shown a real aptitude for the public service. We are aware that one of the principal attractions of the Civil Service as a career to-day is the immediate security which it offers to the successful candidate; but it is obvious that this is not an unmitigated advantage to the nation. A proper balance between the public interest and the interests of individual officials would, we think, be struck if Civil Servants in the administrative grade were offered permanent appointments from the age of about twenty-five.

We consider also that the administrative class could be further strengthened by the selection of a certain number of promising can-

dicates from the executive and clerical classes. We are aware that opportunities of promotion from one grade to another exist at the present time, and that officers of exceptional ability have risen from the lower divisions to the highest posts in the Service. But, as things are to-day, it may be impossible for an able official who enters in a lower grade to obtain promotion to the administrative class because his energy is so taken up by his immediate tasks that he has not the time to equip himself as a suitable candidate for the higher divisions. We suggest, therefore, that members of the executive and clerical classes who have shown marked ability should, while still young, be given special training at the public expense, with a view to fitting them for consideration by the Civil Service Commissioners, side by side with those who have entered for the ordinary competitive examination for the administrative class.

A limited number of vacancies should also be reserved each year for older candidates who have begun to make their mark in other professions. Among the outstandingly successful personalities in almost every other profession are to be found men who have entered its ranks from some other occupation. Their success is often due to the very fact that they have entered their second career with the advantage of a more varied and deeper experience of the world than their fellows, and this has more than counterbalanced the disadvantage of their late entry into the profession of their final choice. It appears to us highly desirable that the Civil Service should be enabled to recruit a proportion of its administrative class from men of this type.

It may be argued that this proposal would open the door to patronage, but we are satisfied that this risk can be discounted. No difficulty of the kind has arisen in the appointment of technical experts or of staff inspectors at the Board of Education, who are habitually chosen from members of the teaching profession. It would, of course, be necessary to advertise vacancies, and we have no doubt that the Civil Service Commissioners could devise a satisfactory procedure for the selection of candidates for these appointments.

Proposals for the recruitment and reorganization of the Foreign Service have been approved by Parliament. The White Paper outlining these proposals¹ recommends the creation of a new combined Foreign Service separated from the Home Civil Service and treated as a self-contained and distinct Service of the Crown. It lays great stress on the advantages to be derived from the amalgamation of the Diplomatic, Commercial Diplomatic and Consular Services. Only if this amalgamation is carried through will it be possible to ensure that the highest posts are open to members in all branches of the Service and that the Foreign Secretary is in a position to move individuals freely from the Foreign Office to service abroad and *vice versa*. It is also considered

¹Proposals for the Reform of the Foreign Service, Cmd. 6240, 1943.

essential that every member of the Service should, as far as possible, have a general knowledge of foreign affairs as a whole. Specialization is obviously necessary and desirable, but it is intended that in the early part of his career every member of the Service should be given the opportunity of gaining experience in its different branches. The White Paper, therefore, recommends that the Civil Service Commissioners should be called upon to examine and to select candidates, but that the organization of the combined Foreign Service should be separated from that of the Home departments and kept under the control of the Foreign Secretary. With these recommendations we concur.

We consider that the Colonial Office and India Office should continue as at present to administer the Services abroad for which they are responsible. We suggest, however, that reforms similar to those proposed for the Foreign Office might be considered for these departments, and that more opportunities might be provided for administrative officers in Whitehall to gain experience by periods of service overseas.

(b) Training

No specialist or vocational training has hitherto been demanded of government officials except in the Foreign, Colonial and Indian Civil Service. It is proposed as part of the projected reform of the Foreign Service that training in languages, modern history, economics and commercial relations should be provided at the expense of the State after the candidate has been accepted on the result of the general Civil Service examination, in which specialization will not be necessary. Only those candidates who are successful in a further qualifying examination, and who can satisfy a Foreign Office Selection Board on grounds of character and personality, will be permanently appointed subject to a year of probationary service. These proposals are based on a recognition of the fact that in the world as it is to-day the conduct of foreign affairs demands a knowledge not only of foreign languages, but also of modern history, politics and economics. The fact that advanced training in these subjects will be provided at the expense of the State will ensure that no suitable candidate is prevented from competing merely because he has no private means to enable him to continue his education after leaving the University.

The time has, we think, come when it will be no longer possible to look upon the Home Civil Service as an entirely non-specialist profession. Much of the popular criticism which is so common to-day is undoubtedly ill-informed and ill-natured. None the less, there is considerable justification for the view that the training of higher Civil Servants is inadequate in that they have little opportunity of studying at first hand the social and economic affairs which they are called upon to handle.

We suggest, therefore, that in the Home Civil Service also the probationary period should be looked upon primarily as a period of training. It should not be necessary, as in the Foreign Service, where a knowledge of languages is essential, to insist upon compulsory training in academic subjects. But instruction in social and constitutional history, economics and political institutions might be provided for those who have gained their higher education in quite different fields. We make this suggestion for the very reason that we do not wish entry to the administrative grade to be confined to those who have studied these subjects at the University. It should be possible also to arrange for a strictly limited number of free places at the Universities for selected candidates from the clerical and executive grades, and the Civil Service Department would no doubt examine this possibility.

For the majority of new entrants, however, the best training would consist in a wide and varied experience of administration. As things are to-day a newly appointed Civil Servant in the administrative grade joins his department as an Assistant Principal. Some specific task is allotted to him and he gradually finds his feet, gaining his knowledge of administrative method by precept and example. He is not sufficiently experienced to be entrusted with responsibility, and much of his work may be mere routine. He has neither the satisfaction of gaining wide practical experience nor the sense of exerting his intellectual powers to the full. To a certain extent this is the common lot of all who embark on the stubborn task of earning their livelihood. We do, however, suggest that a promising entrant to an enlightened business firm is in this respect in a more advantageous position than a Civil Servant, since he will in all probability be given greater scope for his energy in studying various branches of his business. In commerce and industry it is a common practice for those who are likely to hold executive posts to be given experience in the workshop or sales-room. A similar system might with advantage be introduced in the Civil Service. A new entrant to the administrative class should be given opportunity to work in different sections of his department, and also to understand the work of the department as a whole; he should, whenever possible, spend some part of his training in those branches which deal directly with the outside world. The probationary period might also be divided between different departments.

It would, we think, be even more valuable in departments concerned with the social services to provide opportunity for probationers to gain practical experience of local administration. Such experience should serve to reduce the friction which so often arises between Whitehall and some local authorities. The Burnham Committees, to take only one example, have borne good fruit in producing a better understanding between the Board of Education, local authorities and teachers' associations. Unfortunately, opportunities of this kind are

only too rare in the ordinary course of an official career. We suggest, therefore, that it might be possible for Civil Servants, in suitable cases, to spend some probationary period of service in working for local authorities or public utility bodies, and that facilities should be provided for junior local government officials to gain experience of central administration. It would be more difficult to provide for similar experience in the practice of industry and commerce. We may, however, look forward to a period of closer co-operation between the Government and organized industry, and every opportunity should be taken to enable young Civil Servants to gain a closer insight into the actual working of the industrial system.

We do not recommend the establishment of any special "Staff College", or its equivalent, for the Civil Service. No Civil Service College would be able to compete effectively with the leading Universities in the teaching of academic subjects, nor could attendance at such a college be a substitute for the practical experience and knowledge of affairs which is essential in the higher ranks of the Service.

(c) Pay and Conditions of Service

The need for revision of salaries and allowances in the Foreign Service has already been accepted by Parliament. A similar revision is, we think, essential also in the Home Civil Service. One effect of our proposals will be to diminish to some small extent the security at present offered to successful candidates. For the reasons stated we regard this as, on balance, a gain, but it makes it necessary to consider how far security is at present the chief attraction of the Civil Service as a career and how far, therefore, some revision of present conditions of service will be necessary, if the quality of the entry is to be not only maintained but improved.

The pay of the higher branches of the Civil Service compares to-day rather unfavourably with that of most professions, except perhaps at the very top, where the salary (£3,000 per annum with generous pension rights) represents the equivalent of a very considerable income in business or the professions. But even so it must be remembered that more and more businesses, to say nothing of the local authorities and the Universities, now offer pension rights to their permanent employees, whilst in the professions, such as the Bar, where there is no question of pension, the rewards of success and the opportunities for distinction are altogether disproportionate to those held out even to the most brilliant Civil Servants.

Moreover, it is doubtful whether the salary of the Permanent Head of a department is at all a fair criterion by which to judge the comparative attractions of the Civil Service as a career.

There has been a marked change in recent years in the age at which men can expect to attain relatively high positions outside the Civil Service, notably in the Army, in the teaching profession, in

journalism and in the City. Unless security of tenure is to be wholly denied and seniority is to go by the board altogether, and we recommend neither of these things, the Civil Servant cannot to-day expect to get substantial promotion at all early in his career. In peace-time he will be lucky if he becomes an Assistant Secretary at the age of forty or a Principal Assistant Secretary at the age of fifty. The young man choosing a career is more guided by what he can expect to get when he reaches thirty or forty, when he may expect to be married and have a family to bring up and educate, than by what he may hope for, if he is lucky, when he is over fifty. It is moreover, in our view, desirable in the public interest that a Civil Servant of the administrative class should be able to mix on equal terms with the brilliant young men in the professions. Only in this way is he likely to acquire that wider outlook and knowledge of the world which are essential to successful administration.

For these reasons we recommend that the established Civil Servant of the administrative class should be able to look forward with certainty to a substantial income at thirty; this should not be less than £1,500 a year. It is a necessary corollary to this recommendation that the privilege of establishment should not be conceded as a matter of routine, and that the Government should have the right to enforce retirement at a comparatively early age for those officials who do not show capacity for promotion to the higher posts. We recommend, therefore, that retirement with proportionate pension rights should be made possible at any time after fifteen years' service, subject to the right of the Civil Servant to appeal from the decision of the head of his department to the Minister in charge of the Civil Service Department.

The salary we propose may seem high. It is suggested in the belief that the nation requires its best men in the Civil Service. It is possible that to-day there are a number of officials in the administrative class doing work for which high ability is not required. This may be the result of admitting into this class more men than are strictly necessary. We consider that this matter should be carefully investigated. If our surmise were found to be correct, it would be evident that further opportunities could be afforded for the promotion of senior members of the executive class to routine administrative posts.

We attach great importance to the proper remuneration of the scientific and technical staffs, and we suggest that the whole question of the selection and payment of technical and scientific experts should be carefully investigated by the Civil Service Department.

We summarize our recommendations in regard to the administrative grade as follows:—

(a) The great majority of the vacancies on the administrative establishment should continue to be filled through the medium of a competitive examination held by the Civil Service Commission (or Department). The Commissioners should be guided

not only by the candidate's academic qualifications, but also by his past record and his personality as disclosed in a *viva voce* examination.

(b) A limited but definite number of vacancies on the administrative establishment should be reserved for suitable, pre-selected candidates from the clerical and executive classes and for special entrants at a later age who have begun to make their mark in other professions.

Such candidates, if selected for appointment, could be established on entry and could enter at the salary appropriate to their age. The detailed conditions to be satisfied by such entrants would require definition by the Civil Service Department but, in our judgment, entry to the administrative from the clerical or executive grade through this machinery should be confined to officials below the age of twenty-five, who have been recommended for and have successfully undergone a free course of instruction at one of the Universities.

(c) The probationary period for ordinary entrants should be three years and establishment after that period should not be allowed to become a matter of course.

(d) Special attention should be given to enable new entrants to gain a wide variety of experience during their probationary period.

(e) The pay of the administrative grade in the Home Civil Service should be reviewed so as to ensure that between the age of thirty and forty the established Civil Servant in this grade shall receive not less than he might expect to earn, if he were to achieve substantial success in some other profession or in business. The standard should be that of the exceptional, not of the average, man and should not be lower than £1,500 per annum.

(f) The size of the establishment of the administrative class should be carefully reviewed so as to ensure that it does not exceed the number for which posts of real responsibility can be provided at an early age. (It should be noted in this connection that our recommendation for late entries would provide a safety valve in the event of any sudden expansion of the work of a department or of a number of the ordinary new entrants failing to fulfil their early promise.)

(g) Careful consideration should be given to the salary scales for expert technical and scientific staffs, in order to bring them into line with those available in competitive industry.

(h) The Foreign Service should be reformed on the lines proposed by the Secretary of State for Foreign Affairs (Cmd. 2420) and a combined Foreign Service should be established, separate and distinct from the Home Civil Service.

(i) The Colonial Office and the India Office should continue to administer the various services for which they are now responsible without the intervention of the Civil Service Department or the Selection Board, all appointments being made by the respective Secretaries of State with the approval of the Prime Minister.

(j) A Civil Servant, any time after he has completed fifteen years' service, should, if he is considered unsuitable for further promotion, be requested to retire from the Service and should be entitled to a pension proportionate to his length of service, subject to the right of the official to appeal from the head of his department to the Minister in charge of the Civil Service Department.

PART FOUR

“There is no limit to the curiosity of Parliament.”

WALTER BAGEHOT, 1867.

X. THE EXECUTIVE AND PARLIAMENTARY CONTROL

It is essential to the successful working of the parliamentary system that the House of Commons should retain its traditional place at the centre of the constitutional structure. Neither the driving force of “community sense”, nor the wisdom and discretion of benevolent paternalism can in this country replace the active exchange of opinions. All our foresight and scheming will be doomed to failure, if they are not based on the free unhurried evolution of individual thought. The function of the House of Commons, therefore, should be not only to exercise a close and critical supervision over all the manifold activities of government, but also to provide effective opportunity for individual members to share in the building up of policy.

Many observers have held that such a view is incompatible with the modern practice of Cabinet government. The extension of the franchise, the development of extra-parliamentary party organization, the growth in the volume of government business and its increasingly technical character—all these factors have led, especially since the last quarter of the nineteenth century, to far-reaching changes in the relation of the Executive to Parliament. The loss of effective control by the House of Commons, it is maintained, although less spectacular, is scarcely less momentous than the decline in the powers of the House of Lords. Ministers are compelled in dealing with complex technical problems to rely to an ever increasing extent on the advice of Civil Servants and official experts. Government bills are prepared after careful consultation with organized interests outside Parliament and broad issues of policy are decided by popular vote at a General Election. Debate in the House of Commons may lead to acrimonious party controversy, but a Cabinet supported by a subservient majority can, it is contended, continue on its path unhampered by criticism which the Opposition is hardly ever able to enforce by an adverse vote in the division lobbies. Private members have scant opportunity to initiate legislation, neither can they substantially influence the policy of the Government.

The problem is undoubtedly a real one. A Cabinet cannot maintain its responsibility for the conduct of affairs unless it can enforce that responsibility; when necessary, by a direct appeal to the electorate. The Minister in charge of a bill must, therefore, be free to resist any amendment which he deems ill-judged or impracticable. He is entitled to do so even in the case of minor amendments, since only those who are responsible for the execution of policy can decide

whether a particular proposal is, or is not, in conformity with the general purpose of the measure in question.

Yet the picture is seriously overdrawn. No Government, even though it may command a large and well-disciplined majority, can afford to ignore criticism in the House of Commons, provided that such criticism is not confined to the mere reiteration of an opposing policy already rejected by the electorate. The effectiveness of criticism in the House of Commons is to be judged not by the number of divisions carried against a Government, but by the nature of the amendments which a Government is induced to accept. It is a mistake to suppose that because the Minister in charge of a bill has refused to accept a particular amendment, the purpose for which it was intended is thereby wholly frustrated. He will often find some alternative and more suitable method of meeting the criticism of Parliament.

The practical effect of debate in the House of Commons in influencing policy and shaping legislation does, of course, vary with the political situation. When party feeling runs high the Government of the day can usually rely on its supporters to present a united front against the official Opposition. At other times there may be important issues which cut across the ordinary party lines and the Government may have to face a lively cross fire of criticism. During the early years of the present century, when the political life of the nation was dominated by violent party conflict on major issues of policy, the rank and file on both sides of the House showed little inclination to speak or vote in opposition to the party Whips. Although there were serious causes of disunion within both the Liberal and Conservative parties, the consequent discords and dissensions were seldom revealed by open disagreement in the House of Commons. More recent events, however, do not bear out the contention that the private member is condemned to play a negligible part and that debate in the House of Commons is becoming increasingly unreal and ineffective. From 1931 until 1945 Governments were supported by unusually large majorities; the Opposition to the first National Government was numerically extremely weak, and during Mr. Churchill's Coalition Government there was no official Opposition. Such conditions entail serious disadvantages and inconveniences: but they undoubtedly encourage a more critical and independent attitude on the part of back benchers supporting the Government.

During the war the normal activities of the House of Commons were to a certain extent restricted, but none the less there was a marked revival of public interest in parliamentary proceedings. The Coalition Government insisted, perhaps too often, on its constitutional right to decide whether any particular issue should be considered a matter of confidence, and refused to accept an unreal distinction between its

responsibility for the conduct of the war and its responsibility in other matters. The fact that a General Election was scarcely possible until the end of the European war did not prevent the Government from using the threat of resignation with telling effect to resist its critics on issues which, in the opinion of Ministers, were not susceptible of compromise. It was able to do so because, in spite of the disappointments and recriminations which, from time to time, attended the changing fortunes of war, the nation as a whole remained firm in its support of Mr. Churchill's leadership, and the House of Commons, therefore, had no choice but to accept the conditions which he considered necessary for his continued service. None the less, the House of Commons proved that it could give forceful expression to the discontent which, for good or for ill, prevailed among certain sections of the public in regard to particular aspects of policy. This is typified by the pressure which was brought to bear upon the Government to forge ahead with reconstruction measures. In the actual discussion of such measures members on all sides of the House did not hesitate to press their own views. As a result, the Government's proposals in many instances were modified, and Ministers in charge of bills accepted an unusually large number of substantive amendments. No one who has followed the debates on Education, Public Health and Town and Country Planning could seriously maintain that the House of Commons has lost its capacity for constructive criticism.

In considering the question of constitutional reform we are concerned with the machinery of government and not with the policies of political parties. The two cannot, however, be entirely separated. It may be that in the future political parties will be divided by irreconcilable differences affecting the economic and social structure of society. In that event the decision will rest with the votes of the people at a General Election, and the House of Commons may well become a mere skirmishing ground on which Government and Opposition refight the barren conflict already decided in a wider arena. But it may be that the return to normal party government will not disrupt the underlying sense of national unity, and that within the ranks of each of the great political parties there will be found men and women of independent outlook who are less interested in furthering extreme party principles than in solving the concrete problems which affect the security and well-being of the community. The existence of an active and vigorous Opposition does not mean that the opposition party is incapable of joining in support of the Government of the day when this is desirable in the national interest, nor need it prevent independent criticism of government policy by individual members on both sides of the House. In the following pages we discuss certain improvements in procedure which, if the political circumstances prove propitious, may enable the House to make better use of the knowledge and experience of private members. There is, we think, no reason to

fear that a strengthening of the machinery of parliamentary control will have an adverse effect on the efficiency of the Executive. A representative assembly, whose members are aware that they may be called upon to justify before the electorate any decision which they take in opposition to the Government in office, is not likely to become the victim of mere faction or to lose its sense of responsibility for the orderly conduct of national affairs.

The revival of public interest in Parliament is by no means confined to the House of Commons. Debates in the House of Lords on foreign policy, on international finance and on social and economic policy have attracted wide attention. This encourages the view that a reformed House of Lords, more fully representative of the diverse talents and interests of the nation, might do much to relieve the excessive burden of business which at present rests almost exclusively upon the House of Commons.

* I. LEGISLATION AND POLICY

(a) Economy of Time

We have not attempted to make any specific proposals for changes in the Standing Orders of the House of Commons. This is clearly a matter which can only be dealt with by the House itself and a Select Committee has recently been appointed for the purpose. Necessary though it may be to speed up the work of the House during the first stages of reconstruction, it is no less important that far reaching changes in procedure should not be adopted if they might unduly restrict the opportunities available for the discussion of policy and the examination of bills. We discuss below the recommendations adopted by the Select Committee in order to increase the legislative output of the House of Commons by making better use of Standing Committees.¹ It has also been suggested in the past that time might be saved on the report stage of public bills and by altering the procedure for financial resolutions.² It may, however, be found that the total economy of time would not be as great as is sometimes supposed. It is significant that while many of the witnesses examined before the Select Committee on Procedure in 1931 were prolific in proposals to increase the efficiency of the House, but few of the suggestions made were calculated to achieve any substantial saving of time.

¹See First Report from Select Committee on Procedure, 16th October, 1945.

²It has been suggested that all consequential and drafting amendments might be taken in Committee and that the Report stage be used only for new amendments and as an opportunity to reconsider the merits of amendments accepted in Committee. The amount of time saved would not, however, be large.

See Select Committee on Procedure on Public Business, 1931. Minutes of evidence, page 425, et seq.

It was pointed out before the Select Committee that there is a growing tendency to prolong the debate on the financial resolutions introducing bills which

This strengthens our conviction that the most hopeful course of action would be to reform the House of Lords and to increase its share of legislation. It is obviously absurd to maintain a bicameral system and yet to allow the legislative machine to become clogged and ineffective because one House has too much to do and the other too little. There are many useful and, indeed, necessary, measures which may involve difficult technical questions but which do not arouse strong popular feeling, and are not contentious from a party point of view. It would be a great advantage if bills of this kind could be, as a general rule, introduced in the House of Lords. Many such bills, if they had been carefully examined and reported on by a Committee of the House of Lords or by a Joint Select Committee of both Houses, could probably be passed fairly rapidly through all their stages in the House of Commons. It is clearly impracticable to suggest that a Labour Government should initiate bills in the House of Lords as it exists today. Conservative Governments have sometimes done so¹, but even a Conservative Government cannot make full use of the Second Chamber so long as the Opposition parties are quite inadequately represented in that assembly. If the proposals which we make for the reform of the House of Lords were accepted, it should be possible not only to reduce the pressure of business in the House of Commons, but also to pass into law many valuable departmental bills which are now shelved for lack of time.

(b) Standing Committees

The Select Committee on Procedure has accepted the main outlines of the scheme of reform laid before it by the present Government². The greatest expenditure of time upon legislation arises at the committee stage. It is suggested, therefore, that for the time being at least, practically all bills, except financial bills, should be sent to Standing Committees. In order to accelerate the work of Standing

involve expenditure but are not primarily financial. These debates often take the form of a general discussion of the merits of the bill, and the same arguments may then be repeated by the same members in the second reading debate. The procedure has the added disadvantage that the first debate takes place on a document which is necessarily incomplete. (The debate on the financial resolution introducing the Town and Country Planning Bill, 1944, is a case in point.)

Sir William Graham-Harrison (Parliamentary Counsel to the Treasury) suggested in evidence before the Select Committee that in the case of bills which are not primarily financial the financial Resolution might be taken after the Second Reading and before the Committee Stage. The second debate could then be strictly confined to a discussion of the financial aspects of the Bill. *See Minutes of Evidence*, pp. 425, et seq.

¹*See Evidence of Mr. Baldwin. Select Committee on Procedure, 1931. Minute of Evidence, page 36.*

²*See First Report from the Select Committee on Procedure, 16th October, 1945. Memorandum by His Majesty's Government, page 10. This Memorandum was prepared by a committee of Ministers of the Coalition Government, but it did not at any time receive the approval of the War Cabinet.*

Committees it is recommended that their number should be increased and their size, if necessary, reduced, and that some form of guillotine closure should be imposed.

The first proposal does not involve any change in Standing Orders. As things are today, all bills, other than financial bills and provisional order confirmation bills, are referred to a Standing Committee unless the House otherwise determine.¹ It was assumed when the modern system of Standing Committees was established in 1907 that bills, apart from those specifically mentioned, would be retained on the floor of the House only in exceptional circumstances.

There would, in our opinion, be no justification for altering the time-honoured rule that the Committee stage of financial bills should be taken on the floor of the House, and we note that the Government do not propose that any bill of first class constitutional importance should be referred to a Standing Committee. There are, however, also a certain number of major bills closely affecting the life of the nation which may arouse strong party feeling. It is, we think, proper that all members of the House should have the opportunity to propose amendments and to take part in the shaping of such bills. It is doubtful whether any substantial saving of time would be achieved by referring to a Standing Committee a bill which arouses strong political opposition since this would probably lead to a longer Report stage.² It must, moreover, be remembered that proceedings in Standing Committees are seldom reported in the Press and it is, we think, desirable that the public should be able to follow the detailed discussion of important measures which come before Parliament.

We agree, however, that it has hitherto been the practice, for one reason or another, to refer to Committee of the Whole House a considerable number of bills which might with advantage be sent to Standing Committee. Governments have often been reluctant "to send bills upstairs" because it was difficult to obtain a quorum and because in the case of contentious measures the discussion was sometimes unduly prolonged.³

The proposals which we have already made for the times of

¹See Standing Order 46. The Government's Memorandum proposes that the practice of retaining bills on the floor of the House should during the reconstruction period be abandoned in virtually all cases other than (a) bills excepted under Standing Order 46; (b) any bill which it may be necessary to pass with great expedition; and (c) "one clause" bills not requiring detailed examination in Committee.

²This view was taken by most of the witnesses before the Select Committee on Procedure who had long experience of the House. See Evidence of Mr. Ramsay Macdonald, page 3, Mr. Baldwin, page 34, and the Speaker (Captain Fitzroy), page 407.

A contrary opinion was expressed by Mr. Lloyd George, see page 45.

³A major bill might occupy ten or even twenty days in committee if taken on the floor of the House; if sent to Standing Committee three or four months might elapse before it was reported. See Select Committee on Procedure. Minutes of Evidence, 13th September, 1945, page 33.

sitting of the House may, we hope, do much to solve the problem of non-attendance. It would be regrettable if even a small amount of parliamentary time were taken up by discussing the committee stage of comparatively unimportant bills on the floor of the House, because a regular attendance of members could not be secured in Standing Committees.

It is undoubtedly true that the opportunities for obstruction in a Standing Committee are greater than in Committee of the Whole House. For this reason also the whips have not, as a rule, sent upstairs complicated and technical bills which are politically contentious. Provided, however, that the Minister in charge of a bill retains the right to oppose as a matter of confidence any amendment which he is not prepared to accept, there is, we think, much to be gained by the comparative freedom from party discipline in Standing Committees. But genuine discussion should not degenerate into obstruction. The position has been much improved by the Standing Order extending to Chairmen of Standing Committees the right to select amendments without any special instruction. If in the future the number of bills sent to Standing Committees is increased it may be necessary to impose a closure. The Select Committee recommends that this should be done by fixing the date by which a bill must be reported and allowing the Committee itself to work out the details of the time table.

It has often been suggested that greater efficiency could be secured by changing the composition of Standing Committees. These Committees, with the exception of the Scottish Committee, consist of a permanent nucleus of not less than thirty, or more than fifty, members nominated by the Selection Committee which is directed to take into account not only the "composition of the House", but also "the classes of bills committed to such committees" and "the qualifications of the members selected". The Committees themselves have power to nominate not less than ten or more than thirty-five additional members to serve during the consideration of a particular bill. The quorum is twenty. The House of Commons, in contradistinction to the American House of Representatives and to most Continental Legislatures, has never been prepared to delegate the examination of Public Bills to small specialized committees. Its Standing Committees are, to a certain extent, microcosms of the Whole House; they are large enough to reflect the distribution of parties and local interests, and also to include those members who have special knowledge of the subject matter of any particular bill.

It has been said in criticism of the present system that it entails all the disadvantages without the advantages of discussion in Committee of the Whole House. It is certainly no easy matter for a Minister to pilot a complicated bill through a committee with a fluctuating attendance of from twenty to eighty-five members. It might, we suggest, be an advantage to reduce the size of Standing Committees to a maximum of

fifty, while retaining the present quorum of twenty.¹ A smaller membership would not, we think, carry sufficient weight to win the confidence of the House. This reduction in size would make it possible to increase the number of Committees.² It would also, we think, encourage a more regular attendance of members, and if this were so the number of those actively taking part in the discussion of any particular bill would not be smaller than is often the case at the present time.

It is also, we think, worth considering whether some change might not be made in the method of distributing bills between Standing Committees. In view of the proposals which we have made for the grouping of government departments it might be found useful to refer to particular Standing Committees all legislation emanating from one or more of these departmental groups. In this way it should be possible to secure a more continuous and expert interest in a particular branch of legislation without unduly reducing the size of the Committees.³

It would not, we think, be either practicable or desirable to appoint separate Standing Committees attached to each of the important ministries. This proposal has been made in the past by those who wished to introduce very small Committees, and to entrust to them not only the work of legislation, but also the supervision of administration and the scrutiny of Estimates. We are strongly opposed to the combination of these different functions in a single committee. A Standing Committee whose task it is to legislate must reflect the current distribution of party strength in the House of Commons. In the last resort the Minister in charge of a bill must be free to oppose amendments, for which he is not prepared to accept responsibility, by appealing to the loyalty of the Government's supporters. The function of a Select Committee, on the other hand, is usually to investigate and report but not to decide an issue. In those committees which are appointed for this purpose and which do not encroach on matters of policy it is often possible to achieve a valuable non-party investigation of administrative detail.⁴

¹ The proportion of permanent and temporary members would remain unchanged.

²Hitherto the maximum number of Standing Committees, including the Scottish Committee has been five.

³ The proposal is somewhat similar to that made by Sir Horace Dawkins (Clerk of the House) before the Select Committee on Procedure (1931). We do not, however, suggest that Standing Committees should consist entirely of permanent members since this would not allow sufficient flexibility. *See Minutes of Evidence*, page 385, et seq. and pages 442-3. *See also* evidence of Sir Gilbert Campion (Clerk of the House) before the Select Committee on Procedure, 1945. *Minutes of Evidence*, 19th September, 1945, page 41.

⁴Select Committees are appointed to investigate a particular question on which the House may desire assistance or advice. Private Bills are normally referred to Select Committees, but this is unusual in the case of Public Bills. Select Committees consist of about fifteen members. Standing Committees normally deal with the committee stage of Public Bills which are not referred to Committee of the Whole House. They are, for this reason, much larger bodies, and political parties are represented in the same proportion as in the House.

(c) The Early Discussion of Legislative Proposals

It is in, our opinion, important if Members of Parliament are to take a more active part in the work of legislation, that they should be given the opportunity of discussing policy at an early stage, before a bill has been drafted and presented to Parliament. It is customary for a Minister and the officials in his department, when considering any important legislative proposal, to consult every kind of organized body which represents the interests affected or which can claim special knowledge of the subject. A bill is then prepared in the department with the assistance of the Parliamentary Counsel to the Treasury, who is responsible for the actual drafting. Having received the approval of the Cabinet, the bill is presented to Parliament in a finished form. It is evident that a Minister, who is sure of his ground and knows that his bill is well prepared and well thought out, will be reluctant to accept amendments at this late stage. It does, in fact, often happen that amendments accepted as a result of criticism in the House of Commons prove to be misconceived and lead to difficulties when the Act is put into operation.

In the past there was no recognized method by which the House of Commons could be officially consulted at the crucial stage at which policy is determined. The Coalition Government, however, adopted the practice of submitting to the House a White Paper embodying its general intentions on important matters of domestic policy. The discussion of these White Paper proposals led to valuable debates. Members felt themselves free to make constructive suggestions, and Ministers were able to test the feeling of the House and to consider the various criticisms and objections raised before their proposals had finally taken shape. The further use of this procedure would, we think, prove useful in enabling the House of Commons to perform its proper function of guiding and initiating national policy.

We consider, also, that Select Committees of the House of Commons, or preferably Joint Select Committees of both Houses, could often be used with advantage for the preliminary study of matters with regard to which legislation is considered necessary. Committees of this kind would be able to investigate questions, which, although of real national importance, do not arouse serious party controversy. Discussion in committees, whose task it is to conduct inquiries over alleged failures of policy and administration, may degenerate only too easily into mere recrimination between the Government's supporters and the Opposition. But at an early stage in the determination of policy some kind of constructive discussion on non-party lines might be possible. The extension of this kind of opportunity for private members might also be an additional inducement to well informed men and women who are interested in particular branches of government to enter the House of Commons.

Select Committees of this kind should be comparatively small,

and should be chosen from members of different political parties who have shown special knowledge, or have practical experience, of the matter which is to be inquired into. It is essential that the Minister or Under Secretary of the department concerned should preside in person. We suggest that officials from the various departments should attend in order to explain the views of their departments. Contact of this kind would, we think, be beneficial to both parties. Members of Parliament would gain greater insight into the knowledge and experience which so many Civil Servants bring to the service of their departments, and the officials would be given the opportunity of realizing that Members of Parliament are not necessarily ignorant and obstructive persons, intent on thwarting any attempt at initiative on the part of the Civil Service, and always lying in wait to discover minor errors which can be shown up by questions in the House of Commons.

The recommendations of these committees would enable the Government to ascertain the various views which prevail in Parliament before drafting its bills. A Minister when framing a bill to deal with a matter which had been referred to a Select Committee would not, of course, be bound to accept the recommendations of the committee, but he would, no doubt, be guided by them to some extent. He would, before committing himself to a definite decision, be able to consider the criticism which his proposals were likely to encounter. Much time in the House itself might, in our opinion, be saved if this practice of referring subjects of legislation to Select or Joint Committees were adopted as the usual practice of Parliament.

2. CONTROL OF FINANCE AND ADMINISTRATION

We do not recommend that any radical change should be made in the financial procedure of the House of Commons. It is essential that the Government should retain full control of financial policy and be held clearly and unequivocably responsible for its own financial administration. For this reason we are opposed to the establishment of any kind of Grand Committee to control finance on the lines of the Budget Committees of the French Chamber and Senate. The instability of French finances under the Third Republic was largely due to the fact that responsibility was divided between the Minister of Finance and the Budget Committees. The Minister was seldom in a position to pursue a consistent policy, and when difficulties ensued he could always claim that his Budget proposals had been more or less drastically amended and that the responsibility for failure must rest with the deputies and senators who had taken control into their own hands.

According to the British parliamentary system the Chancellor of the Exchequer is responsible to the House of Commons for the administration of the national finances. It is the function of the House of Commons to examine the Government's proposals for raising the necessary revenue and to scrutinize the expenditure of the various

departments. Every decision is taken on the floor of the House and a vote against the Government is equivalent to a vote of no confidence. This does not mean that the House of Commons is powerless to enforce economy. The greater part of national expenditure is either the result of permanent commitments or is determined by the policy of the Government which the House has itself endorsed. In the event of administrative extravagance the fact that the question is raised and debated is usually sufficient to induce a department to mend its ways. But should the House wish to enforce its objection by an adverse vote in Committee of Supply, it must face the fact that this will be interpreted as a vote of no confidence.

Treasury Control

The surest safeguard against extravagance rests in the fact that the Estimates of the different departments are carefully examined by the Treasury before they are presented to Parliament. The Treasury officials have access to the departments and are obviously in a stronger position than Members of the House of Commons to judge whether the Estimates have been framed with due economy. This control is less effective in time of war, when the necessity for speed must often override all other considerations. The fact that in time of peace administrative extravagance is so seldom revealed in the House of Commons is proof, not of the laxity of parliamentary control, but of the skill and care with which the work of supervision over the spending of public money has already been done by the Treasury.

Committee of Supply

It is evident that a general debate in Committee of the Whole House is not a suitable method of investigating the details of expenditure. Since the procedure reforms of 1902 it has been recognized that the purpose of these debates is to enable the Opposition to criticize the policy, and general administration, of the various departments. But members who have reason to suspect that there has been maladministration or extravagance, can raise the matter during the debate on the Estimates of the department concerned. It is, we think, a matter of importance that the Committee on Public Accounts and the Select Committee on National Expenditure should, if they wish to make any adverse comment on the administration of a particular department, present their reports in time to be considered before the Estimates are taken in Committee of Supply. The fact that these reports deal with past expenditure and not with the current Estimates does not destroy their usefulness. A large proportion of national expenditure, at least in time of peace, is recurrent. A defect in the administration of the previous year can, therefore, be usefully discussed in relation to the new Estimates in Committee of Supply.

The Public Accounts Committee

The most effective instrument which the House of Commons possesses for checking the details of expenditure is the Public Accounts Committee. It is customary to appoint to this Committee members who have had financial experience, and the Chairman is usually a member of the Opposition who has held the post of Financial Secretary to the Treasury. The reports of the Comptroller and Auditor-General are presented in the first instance to Parliament and are then considered by the Public Accounts Committee. The Comptroller and Auditor-General is a servant of the House of Commons; he is independent of the Executive and is assisted by a highly trained staff which has access to the departments. It is his task to audit the whole of the national accounts and to ensure that no money has been spent on purposes other than, or in excess of those, for which they were granted by Parliament. It is, however, clearly understood by the Comptroller that his "function goes beyond mere audit".¹ In this view he has been encouraged by the Public Accounts Committee. The Comptroller, therefore, considers it his duty to inform the Committee of any expenditure which, although not actually irregular, is none the less excessive. The effectiveness of the Public Accounts Committee is increased by its ability to call on the services of a highly skilled staff.

The Estimates Committee

In 1912 a Select Committee was appointed to "suggest the form in which the Estimates should be presented for examination and to report what, if any, economies consistent with the policy implied in those Estimates may be effected therein". With the exception of the years 1915-1920 the Estimates Committee was regularly appointed until the outbreak of the present war. Some useful suggestions were made by this Committee but not, we think, on matters which could not have been dealt with equally well by the Public Accounts Committee. In scrutinizing the Estimates of the departments the Committee was, in fact, duplicating the work which had already been done by the Treasury and its proposals for economy were extremely meagre. In our opinion the time spent by members of this Committee was disproportionate to the results achieved, and we are led to the conclusion that the detailed examination of Estimates by members of the House of Commons without expert assistance is not a fruitful task. We would, however, point out that it is possible to dispense with this kind of investigation only because the Public Accounts Committee exercises a close and critical scrutiny over the actual expenditure incurred.

¹See Evidence of Sir Malcolm Ramsay (Comptroller and Auditor-General) Select Committee on Procedure on Public Business. Minutes of Evidence, page 363, et. seq. Also Report of Committee on National Expenditure 1902-3.

The Select Committee on National Expenditure

A Select Committee on National Expenditure was appointed during the war¹, since some additional check was considered necessary at a time when the submission of complete Estimates to the Committee of Supply was no longer possible. The success of this Committee was due to the fact that it had wide terms of reference; it did not attempt to probe into the details of the Estimates, a laborious and thankless task, but it did inquire into the actual working of the administrative machine in order to discover possible means of economy. Members of the Committee were able to conduct inquiries on the spot, when this was thought advisable. Reports were presented to Parliament dealing with a variety of administrative problems.

This procedure would, in our opinion, prove no less useful in time of peace, and we recommend that a Select Committee on National Expenditure be regularly appointed. We do not consider that investigation of this kind is incompatible with ministerial responsibility since the function of the Committee would not be to make decisions, but to investigate and to report. Neither do we believe that this kind of control is necessarily repugnant to the Civil Service. The Committee may be able to make constructive proposals which are of real assistance to the officials concerned, and may draw attention to reforms which they have been anxious to introduce. Work of this kind is also of value to Members of Parliament, for it enables private members to gain a detailed knowledge of practical administration which they could not otherwise obtain.

We consider that, in so far as there has been any serious defect in the method by which the House of Commons controls public expenditure, it consists in the lack of liaison between the Public Accounts Committee and the Select Committee on National Expenditure. The former is called upon to examine the accounts of two years ago, the latter was concerned with the expenditure of the current year. There was no connection between these two Committees and it was quite possible, therefore, that they might take different views about matters which came within the ambit of both—*i.e.*, general questions such as contract procedure, etc. Any such difficulty could, we think, be avoided if there were one big Committee of Accounts and Expenditure composed of two divisions; the one would perform the functions at present exercised by the Public Accounts Committee, the other would investigate particular administrative problems as was done by the Committee on National Expenditure. The reports of these two divisions would be made to the main Committee and there would be full liaison between them. It would be possible in this way to draw the attention of the expenditure division to those departments in which

¹A similar committee had been appointed in 1917.

further investigation seemed necessary, because there had been a large increase in the estimates or because the past expenditure appeared excessive.¹

3. THE DELEGATION OF POWERS

We are not concerned in our present inquiry with the emergency powers conferred on Ministers by Defence Regulations. The power of the Executive to restrict the right of the subject to trial before the ordinary courts or to limit the freedom of the Press is clearly inadmissible in time of peace. There are, however, other powers such as the right to control prices and to ration commodities which it may be necessary to maintain for a considerable time. It is important, however, that these powers should not be continued in their present form longer than is necessary. They should, at the earliest opportunity, be re-enacted by statutes clearly defining the extent of the powers conferred and abolishing, as far as possible, the right of sub-delegation.

It has sometimes been suggested that the delegation of legislative and judicial powers should be used in order to introduce a radical change in the process of legislation and in the character of the judiciary. A far-reaching plan of social and economic reform could not, it is maintained, be put into effect with any degree of rapidity under the existing methods of parliamentary procedure. Parliament, therefore, should confine itself to the consideration of general principles. The details of legislation should be filled in by the Executive acting on the advice of technical experts.² To implement such a policy there should be established an organized system of administrative tribunals which would be less concerned with abstract conceptions of justice than with the "promotion of certain governmental ends".

These proposals are, in our opinion, constitutionally inadmissible. The "general principles" of social and industrial legislation cannot be decided without considering their application to specific concrete problems. Parliament is fully competent to deal with such matters, and the most fruitful debates are often those in which Members discuss the practical effect of highly complicated measures. Unless the House of Commons continues to exercise its powers to the full it

¹ The Comptroller and Auditor-General in evidence before the Select Committee on Procedure suggested a similar arrangement between the Public Accounts Committee and the Estimates Committee. *See Minutes of Evidence*, page 374 et seq. We have already given our reasons for preferring the procedure of the Committee on National Expenditure.

² See Report on Ministers' Powers. Cmd. 4060, 1932. Note by Miss Ellen Wilkinson, pages 137-8.

"Parliament can only deal really effectively with the principles and general plan of proposed legislation. The details should be left to the experts."

See also further note by Professor Laski. During the years following the defeat of the Labour Party in 1931 the writers of the "Socialist League" went further than this. They proposed that if the Labour Party gained a clear majority at an election, it should immediately pass a General Powers Bill, and that the change over from Capitalism to Socialism should be carried out by Ministerial Order.

will be unable to maintain its authority over the Executive, it will forfeit the confidence of the people and it will fail to attract the services of men and women who by knowledge and experience are best fitted for the work of government.

The greater the intervention of the Government in the social and economic life of the community, the more necessary is it to uphold the independence of the judiciary. When for the sake of convenience an administrative tribunal is established, or when in the process of arriving at an administrative decision, a judicial inquiry is held, it is essential that the procedure should be in accordance with the recognized principles of objective justice.¹

We have emphasized this point because—quite apart from any question of revolutionary change—there is a danger that Parliament may by inadvertence give greater powers to the Executive than is compatible with its own authority. It is perfectly justifiable that Parliament should grant discretionary powers to Ministers, if this is done deliberately and if the sphere within which Ministers can act is clearly defined. But if a particular policy has been approved and embodied in an act of Parliament the Minister concerned should not be given discretionary powers which may enable him, without new legislation, to defeat the policy which Parliament had in mind when passing the act. The utmost vigilance will be needed if, during a time of great legislative activity, Parliament is to maintain its constitutional right of control over policy and administration.

Within these limits it is, we think, inevitable that the practice of delegating legislative powers to Ministers should tend to increase rather than to diminish. It would be impossible, even if it were desirable, to include in every statute all the administrative provisions necessary to carry it into effect. By entrusting to government departments the right to frame and issue regulations under Act of Parliament it is possible to avoid cumbersome and prolix legislation, and to provide for the necessary flexibility in administration. The granting of subordinate legislative powers to Ministers, local authorities and other public bodies, if properly regulated and controlled, is by no means repugnant to the sovereignty of Parliament and the rule of law.² An

¹ See C. K. Allen, "Law and Orders". Stevens and Sons Ltd., 1945, page 170 et seq. Dr. Allen points out that under a properly constituted system of administrative jurisdiction, such as that which exists in France, the administrative courts act with complete impartiality and are in no way concerned with the "purposes of government".

² "When we say that the supremacy of the rule of law is a characteristic of the English Constitution, we mean, in the first place, that no man is punishable or can be lawfully made to suffer in body or goods except for a distinct breach of law established in the ordinary legal manner before the ordinary Courts of the land. . . . We mean in the second place not only that no man is above the law, but (which is a different thing), that every man whatever be his rank or condition, is subject to the ordinary law of the realm and amenable to the jurisdiction of the ordinary tribunals."

See A. V. Dicey, "Law of the Constitution," 8th Edition, 1923, page 179, et seq.

efficient system of parliamentary control will doubtless make additional demands upon the time of members, but the time will be well spent, if it enables Parliament to make more effective use of delegation and so to avoid unnecessarily detailed legislation and the frequent use of amending statutes.

(a) Delegated Legislation

It is usual when legislative powers are conferred upon Ministers for the enabling statute to provide that the regulations or orders issued under its authority must be laid before Parliament. In some cases the regulations come into operation only after they have been approved by affirmative resolution in both Houses.¹ In other cases the regulations come into operation after a specified period unless an adverse resolution has been moved and carried. Recently, however, there has been a great increase in the number of regulations which take effect immediately, although they may be annulled if an adverse resolution is carried during a specified period prescribed in the enabling statute. During the war the Defence Regulations were issued in this form, and the right of members to move a prayer to annul on several occasions proved a valuable safeguard. It is evident, however, that the number of regulations, rules and orders which are laid before Parliament is so large that it is impossible for members, unless their attention is drawn to a particular matter, to know what is being done or to distinguish between those regulations which involve important issues and those which deal merely with routine administration.

In the House of Lords there has for some time past been a committee, the Special Orders Committee, whose task it is to examine all the so-called "positive orders" which come into effect only after an affirmative resolution.² This Committee is assisted by the Counsel to the Lord Chairman of Committees; members of the department concerned are examined before the Committee and a report is presented to the House. It has been possible in this way to direct attention to those regulations which are sufficiently important to invite careful examination before the assent of the House is given. Experience has shown that this procedure does not involve an overwhelming amount of work and it has not caused undue delay.

In the past no such procedure existed in the House of Commons. In 1944, however, it was decided to appoint a Select Com-

¹ In the case of financial resolutions the consent of the House of Commons alone is necessary, *i.e.*, regulations issued by the Treasury on the advice of the Import Duties Advisory Committee.

² House of Lords, Standing Order 212. "At the commencement of every Session a Standing Committee shall be appointed to which all Special Orders shall stand referred. The expression 'Special Order' means any Order in Council, Departmental Order, Rule, Regulation, Scheme or other similar instrument . . . presented to or laid in draft before the House where an affirmative is required before the Order or any part thereof becomes effective."

mittee to examine all regulations, rules and orders which are laid before Parliament.¹ The function of this Committee is not to deal with questions of policy, but to inform the House whether any matter of principle is involved to which special attention should be drawn. The Committee is assisted by the Speaker's Counsel. We hope that the work of this Committee will be reviewed after an experimental period.

No distinction is made under this procedure between "negative" and "positive" Orders. The distinction is clearly anomalous, since many regulations which require an affirmative resolution do in fact deal with quite unimportant matters, and there is reason to suppose that the practice of issuing important regulations in the "negative" form will continue. Yet it would obviously be unnecessary, and indeed impossible, for members of the Committee to examine in detail every one of the vast number of regulations and orders which are laid before Parliament, and the Committee would be snowed under if it attempted to apply to all "negative orders" the procedure which is used in the House of Lords to examine "positive" orders.

We suggest, therefore, that all regulations and orders might be submitted for examination in the first instance to the Lord Chairman of Committees in the House of Lords and to the Chairman of Ways and Means in the House of Commons. With the assistance of their legal advisers the Chairmen could no doubt eliminate those regulations and orders which do not appear to need special examination and so reduce the number to be submitted to their respective Committees. But the burden of work would still be heavy, and it is suggested, therefore, that the Committee should have power to divide into sub-committees and that each sub-committee should be enabled to act independently, provided that every member has the right to bring any decision before the main Committee.

It might be advisable in the future to entrust the work of examination to a Joint Select Committee of both Houses. We are aware that committees in the two Houses are differently constituted, but this difficulty could, we think, be overcome. The use of a Joint Committee would save time and prevent what is in reality a duplication of work.

The institution of this procedure does not, of course, affect the right of any Member of Parliament to move for a prayer to annul a regulation or order.

We would, however, point out that these improvements in the machinery of parliamentary control do not solve the whole of the problem. The new Committee deals only with regulations and rules which have been drafted and issued under powers conferred by statute. It is in many ways even more important that Parliament should exercise a careful control over the conferment of these powers in the enabling statutes.

¹ See Hansard, May 16th, 1944.

The Report of the Committee on Ministers' Powers has drawn attention to the lack of any uniform principle by which such subordinate legislative powers are conferred. Much confusion has been caused in the past by the failure to adopt any logical system of classification. The expressions "regulations", "rule", "order" and "special order" have been used with bewildering lack of consistency. The Committee suggested a simple definition of terms which should, we think, be adhered to.¹ Equally inconsistent is the present practice prescribing the length of time for which a regulation is laid on the table of the House. We consider that a uniform period of twenty-eight parliamentary days should normally be prescribed during which a resolution to annul can be proposed.

These, however, are chiefly matters of form. More important is the principle that Parliament should not, in ordinary circumstances, delegate to Ministers the power (1) to legislate on matters of principle; (2) to impose a tax²; (3) to modify the provisions of Acts of Parliament except for the sole purpose of bringing an Act of Parliament into operation and then only subject to a definite time limit; (4) to issue regulations and rules which are not subject to the ordinary jurisdiction of the Courts in determining their legality under the enabling statute. In all cases "the precise limits of the law-making power which Parliament intends to confer should be expressly defined in clear language by the statute which confers it; when discretion is conferred its limits should be defined with equal clarity".³

It is, of course, constitutionally impossible to restrict the law-making power of Parliament. Parliament is legally sovereign, and the Courts must enforce any statute duly enacted, however unreasonable or oppressive it may be. In times of emergency it has frequently been found necessary to confer on the Executive very wide discretionary

¹ "The expressions 'regulation', 'rule' and 'order' should not be used indiscriminately in statutes to describe the instruments by which law-making power conferred on Ministers by Parliament is exercised. The expression 'regulation' should be used to describe the instrument by which the power to make substantive law is exercised, and the expression 'rule' to describe the instrument by which the power to make law about procedure is exercised. The expression 'order' should be used to describe the instrument of the exercise of (A) executive power, (B) the power to take judicial and quasi-judicial decisions."

Committee on Ministers' Powers. Report. Cmd. 4060. 1932, page 64.
We have used the terms in this sense.

² We agree with the Report of the Committee on Ministers' Powers that the right to impose a tax is an exceptional form of delegation in that it should not be conferred without very careful consideration by Parliament. But in relation to tariff legislation it is not necessarily a temporary measure arising from a transitory emergency. So long as a tariff other than a flat rate duty is imposed, the duties on particular commodities should, we think, be determined not directly by Parliament but by an independent body whose members have no direct or indirect financial interest in the industries concerned. The procedure introduced by the establishment of the Import Duties Advisory Committee is, we think, excellent for its purpose.

³ See Report on Ministers' Powers, page 65.

powers in contravention of the principles we have stated. None the less there is, we think, a general consensus of opinion among all political parties that Parliament should not in normal times depart from these principles without careful consideration of the reasons that may be urged in favour of such exceptional action.

It is important, therefore, that government departments when preparing legislation should keep these considerations carefully in mind and that the parliamentary draftsmen should not, unless specifically instructed to do so, depart from the uniform use of terms to which we have referred.¹ But the ultimate responsibility rests with Parliament. It is natural that in the ordinary course of debate, Members of Parliament should direct their attention to the purpose and content, rather than to the form, of the legislation proposed. It may, therefore, happen that exceptional powers are granted inadvertently or that the sphere of delegation is not clearly defined or its form prescribed by the use of a consistent phraseology.

The Report on Ministers' Powers suggested that the relevant clauses of all bills which contain provisions for conferring legislative powers upon Ministers should be submitted for examination to a Select Committee of the House of Commons or to a Select Committee of both Houses. We consider that this proposal should be carried into effect. The work might be entrusted to a separate committee or to a sub-committee of the body already established to examine regulations. It was pointed out in the Report that the task would be much lightened if every bill containing provisions for delegated legislation were accompanied by a brief memorandum explaining the purpose and scope of these provisions. The function of the committee would not be to discuss the merits of the bill, but merely to report to the House whether the proposed delegation involved any departure from the normal practice. A time limit should be fixed for the presentation of these reports, and they should be received early enough to be considered by Members of Parliament before the committee stage of the bill is reached. The result should be to secure greater uniformity of practice and to ensure that "Parliament does not depart from the normal into the exceptional type of delegation without special need or conscious consideration of the grounds upon which such a departure is made."²

We consider also that the proposals of the Report on Ministers' Powers for the repeal and re-enactment of the Rules Publication Act should be carried into effect.³ The Act as it now stands provides for

¹ Sir Cecil Carr has pointed out that the recommendations of the Committee on Ministers' Powers have been taken into account in the drafting of various statutes. This has been the result of departmental action; there is at present no parliamentary machinery to ensure that these principles are consistently adhered to.

² See Carr, "Concerning English Administrative Law", page 145.

³ See Report, pages 58 and 63.

³ See Report, pages 44 et seq. and page 66.

the publication of draft regulations in certain cases, but many of the exceptions are, in our opinion, arbitrary and pointless. In addition to the Rules Publication Act many enabling statutes contain special provisions for the publication of draft regulations and for the consultation of interested parties. When the interests concerned are powerful and strongly organized there is, quite apart from these statutory obligations, little danger that they will not be fully consulted by the departments. There are, however, many regulations which although they affect only a small number of people may be extremely important to those whom they do concern. This is especially true of small trades which are not always strongly organized. We consider, therefore, that the obligation to publish draft regulations should be made more uniform. Unless the matter is urgent the time allowed should be sufficient to enable the draft regulations to be printed in trade journals. This would make it possible for the people affected to raise objections either by direct approach to the department concerned or by putting their case before Members of Parliament while the draft lies on the table of the House.

In this connection we would point out that interesting developments are taking place in the sphere of economic and industrial legislation. It has become a not uncommon practice for Parliament to impose statutory obligations upon the producers in a particular industry to carry through schemes of reorganization, or to set up by statute some semi-autonomous public body to administer a particular service. In the case of a public utility service administered under a statutory monopoly, provision is usually made for the general supervision of a Minister responsible to Parliament; it is usual also to insist on the consultation of interests and the independent adjudication of claims.¹ In other cases, however, Parliament has retained more immediate control by providing that schemes prepared by the subsidiary bodies must, after receiving the approval of the appropriate Minister, be submitted to Parliament and that they shall take effect only after debate and affirmative resolution in both Houses.² By this method the enabling statute can be drawn up in general terms and is not over-

¹ Cf. The London Passenger Transport Board.

² Cf. The various Unemployment Insurance Acts and the Agricultural Marketing Acts 1931 and 1933.

Under the Unemployment Act, 1934, the administration of the Unemployment Insurance Fund and the drafting of detailed regulations prescribing the rates of payment for Unemployment Assistance were entrusted to the Unemployment Insurance Board and the Unemployment Assistance Board respectively. These regulations were presented to Parliament by the Minister of Labour and took effect only after affirmative resolution in both Houses. Under the Agricultural Marketing Act, 1932, the farmers' representatives drew up the proposed marketing schemes, or if they did not succeed in doing so the Government made a proposal which the farmers' representatives were free to accept or reject. A public inquiry was then held, after which the Minister decided whether to present the scheme to Parliament. No scheme could take effect unless it was approved by affirmative resolution in both Houses. If each House of Parliament passed the affirmative

burdened with detailed or transitory regulations. Organized bodies directly connected with the service or industry concerned are enlisted in the work of legislation and Parliament retains control over the details as well as the general principles involved. The simple procedure by which subsidiary schemes or regulations are accepted or rejected after a single debate in each House ensures a considerable saving of time. We are not here concerned with the policy involved in this type of legislation. But from the point of view of method, we consider that this procedure, which has grown spontaneously from practical necessities, is preferable to the grandiose schemes of industrial devolution which have sometimes been proposed and which would entail the abdication by Parliament of its responsibility in economic matters.

(b) Delegation of Judicial and Quasi-Judicial Powers

The delegation of judicial and quasi-judicial functions to ministerial or other special tribunals has, in recent years,¹ been severely criticized. It is said that this practice involves the haphazard and arbitrary introduction of administrative law without the safeguards and advantages which would result from a consistent and wholehearted adoption of the continental method.¹ Special tribunals are, we think, not only useful but necessary in certain cases. Few people to-day would suggest that the Courts should be burdened with the multiplicity of cases arising out of income tax administration, or the settlement of railway rates, or the adjudication of claims under the various social insurance schemes. In the case of workers' compensation, where no special tribunal exists, the ordinary judicial process has often proved cumbersome, and it has been suggested that a simpler method would be advantageous to both parties.

We are, none the less, definitely opposed to the introduction of a general system of administrative law involving the submission of all claims against the State to separate administrative tribunals which are not subject to the supervision of the Courts. We are well aware that the French system of *Droit Administratif* has its own merits. It makes possible effective disciplinary action against officials for *faute personnelle*, and for *faute de service* it provides a cheap and easy remedy for the private citizen against a government department. Excellent though

resolution the scheme went forward to the final stage, confirmation by a postal ballot of the producers themselves, requiring a two-thirds majority.

These are all forms of delegation, since they can be endorsed by the simple process of resolution. No further legislation is necessary. They are not comparable to provisional orders which take effect only when confirmed by an Act of Parliament, or to the measures prepared by the Church Assembly under the Church of England Assembly (Powers) Act, 1919, which also require statutory confirmation.

¹ See A. W. Robson, "Justice and Administrative Law." Also his evidence before the Committee on Ministers' Powers.

this system may be in its country of origin, it is repugnant to the fundamental conceptions of English law. We, therefore, draw a clear distinction between the strictly limited delegation of judicial functions to special tribunals on the one hand, and administrative law on the other. The one is compatible with the English legal and constitutional tradition; the other is not. We are by no means indifferent to the defects and anomalies resulting from the haphazard and sometimes ill-considered delegation of powers, but remedies are, we think, available by quite other means than the wholesale introduction of an alien system. It is an essential condition of individual liberty, as understood in this country, that every servant of the Crown, no less than a private individual, is personally responsible for his actions under the ordinary law of the land. In spite of a certain popular indifference to liberties which have been so long enjoyed that they are often little appreciated and scarcely understood, the maintenance of this ultimate security against arbitrary action on the part of the Executive is no less necessary to-day than in the past.

In the case of delegated legislation Parliament can, if it so wishes, exercise control over the regulations issued under Ministerial authority. But in the case of judicial delegation there is no possibility of direct parliamentary control over the actual decisions made. Once the enabling statute is passed, and the tribunal established, supervision passes from the legislature to the judiciary. For this reason we consider it essential that Parliament should give special attention to all bills under which ministerial or other special tribunals are to be established. We suggest that all such bills should be subject to the procedure which we have already proposed for delegated legislation. The Select Committee, assisted by legal advice, should be able to inform Parliament whether any proposed delegation of judicial functions departs from the normal practice or involves an excessive degree of discretionary power.

The Report on Ministers' Powers has clearly stated the minimum safeguards which should be enforced by Parliament: (1) purely judicial functions should not normally be entrusted to a Minister personally but to a ministerial, or preferably to an independent, tribunal; (2) such tribunals should be subject to the ordinary supervision of the High Court of Justice; (3) they need not be bound by the ordinary rules of evidence but should adhere to the principles of "natural justice"; (4) there should, except in quite minor issues, be a right of appeal on questions of law to the High Court of Justice.¹ If these rules are adhered to, the practice of judicial delegation does not, we think, infringe the principles of the rule of law.

¹ See Report, page 117. The Report recommends that the procedure for judicial supervision and for appeal should be simplified and modernized.

We do not consider that general rules can be applied for quasi-judicial decisions. These are primarily administrative decisions in which a judicial element is involved. Flexibility is essential, and the compulsory publication of inspectors' reports, which has sometimes been suggested, might prevent a frank and confidential exchange of views between Ministers and their subordinates. Where, however, a judicial inquiry is prescribed as part of the procedure leading to a ministerial decision, the ordinary supervision of the High Court should be maintained. In bills providing for quasi-judicial decisions, the procedure is usually determined by questions of policy; the Minister may be called upon to endorse or reject proposals made by local authorities in the exercise of functions imposed on them by statute.¹ The procedure proposed for supervising the delegation of judicial powers is clearly not suitable for bills of this kind. But, since important pecuniary and other interests may be involved, it is, we think, important that Parliament should give careful consideration to the discretionary powers which it confers on local authorities or other public bodies. When grievances have arisen in the past they have been less often due to the manner in which subordinate authorities have exercised their powers than to the terms of the original statute.

The chief defect of the rule of law as it exists in this country arises from the fact that, although the subject has a simple method of redress against an individual government servant, he may find it difficult to obtain redress from the government department against which his grievance really lies. English law presumes that "the King can do no wrong", and an action can be brought against the Crown only by a special, and often cumbersome, procedure. The Crown is not liable for an action in tort, and since all Government officials are servants of the Crown a Minister cannot, by the ordinary judicial process, be held legally responsible for actions performed by officials under his authority.² In 1921 the Lord Chancellor (Lord Birkenhead) appointed a committee of distinguished lawyers to consider the whole problem of the Crown as litigant. After careful and prolonged investigation a bill was drafted which, if it became law, would have the effect of assimilating the legal position of the Crown to that of an ordinary employer.³ We suggest that if the present means of redress open to the citizen against a government department is considered inadequate, the question might be reconsidered on these lines.

¹ i.e., the various Slum Clearance and Town and Country Planning Acts.

² It is customary, although not obligatory, for a department to undertake the defence and, if necessary, to pay the damages in cases of accident, etc., arising from the alleged negligence of Civil Servants.

³ The Crown Proceedings Bill, 1926. See also Report on Ministers' Powers, page 112, and Carr, "Concerning English Administrative Law", pages 24 and 29.

XI. THE WORKING OF THE CONSTITUTION IN RELATION TO: 1 DEFENCE AND FOREIGN POLICY; 2 ECONOMIC POLICY

In the previous sections of this Report we have examined the problem of Constitutional Reform in relation to the different institutions of government. We have, however, thought it advisable to give special attention to two aspects of policy, the correlation of foreign affairs and defence on the one hand and of economic policy on the other, because it is in dealing with these matters that the machinery of government has proved least satisfactory. We have, therefore, at the risk of possible repetition, sought to gather the threads together and to examine not the working of separate institutions but the inter-relation of the different parts of the Constitution as they affect the vital problems of national security and economic prosperity. The proposals which we make as a result of this inquiry would, we think, provide some safeguard against a repetition of the errors and misfortunes of the past.

1. Defence and Foreign Policy

"Let it be well weighed what a certain security for a lasting peace there is in a defensible and powerful situation and how likely weakness and improvidence are to be the forerunners of war." WILLIAM Pitt, 1786.

It is not our task to attempt a retrospect of the foreign policy of the inter-war years. On certain major issues which divided opinion at the time there is probably as little agreement to-day as in the past. But on one all important aspect of policy it is possible to reach a more definite conclusion. Few people to-day would deny that our foreign policy was hampered and weakened by lack of adequate armaments. We failed to provide the military resources necessary to fulfil our international obligations; as a consequence, we deprived ourselves of the only means by which aggression could have been prevented, and suffered imminent danger of defeat when at last we were forced into war against an enemy whose military strength was vastly superior to our own.

The causes of failure in so far as they were connected with constitutional difficulties can, we think, be summarized as follows:—

(1) During the crucial period leading up to the outbreak of war foreign policy became the subject of acute party controversy. This political antagonism was pushed to such lengths that it made impossible any successful co-operation between the Government and the Opposition on vital issues of national security. From this point of view the situation before 1939 compares most unfavourably with that preceding the outbreak of war in 1914. During the period of Liberal government from 1906 to 1914 when parties were deeply

divided on almost every other issue, including some aspects of foreign policy, it was none the less possible for the Government to consult the Opposition leaders at times of international danger and to rely on their support in carrying into effect the necessary measures of defence. It may indeed be said that consultation of this kind had become an established constitutional practice. In 1931, the Prime Minister, Mr. Ramsay MacDonald, did in fact invite the leaders of the Opposition parties to attend a sub-committee of the Committee of Imperial Defence to consider the policy to be adopted at the Disarmament Conference, which was to meet at Geneva in the following year. Later, however, when the situation was far more dangerous, co-operation was made impossible by the violence with which every increase in armaments was attacked by the Opposition in Parliament and in the country. The Opposition parties were fully entitled to demand a "strong" policy of resistance to aggression, but they defeated their own purpose by resisting every proposal to provide the armaments which were essential if their own, or any other policy, were to be carried successfully into effect.

(2) Those responsible for the provision of national defence were from a constitutional and political point of view in a weak position to resist the demand for economy even though it meant disarmament "to the edge of risk"—and beyond it. In this there is nothing new. Great Britain has always tended to neglect her defence forces in time of peace. The conclusion of every great war has been followed by the demand for retrenchment and reform. Serious consequences have sometimes followed, but in the past it was not on the whole unreasonable to reduce our military establishments in time of peace and to rely on the strength of our navy and the armies of our continental allies to resist the first shocks of a European War. But no steps were taken, in spite of the experience of 1914, to adjust our policy to the changing conditions of modern warfare. During the years of apparent security the navy itself was neglected, and no account was taken of the fact that a powerful air force and mechanized army cannot be suddenly improvised when the danger becomes acute. Disastrous consequences followed from the so-called "ten year rule". This was a Cabinet decision adopted in 1923 and renewed annually till 1929 to the effect that the Service Estimates should be prepared on the assumption that there would be no major war for ten years. Every request for increased expenditure was examined by the Treasury in the light of this rule. The financial authorities established a stranglehold over the Service departments, especially the War Office, and the discouraging effect was so strong that the Services were reluctant to ask for money even for purposes which they knew to be necessary. When the "ten year rule" was eventually cancelled the pressure for economy resulting from the financial crisis of 1931, and the desire of all political parties to increase expenditure on social services, put

further difficulties in the path of those who were responsible for carrying into effect the first stages of rearmament.

We have in a previous section of this Report made certain proposals intended to secure a more unified and consistent defence policy and to put the Minister responsible for the co-ordination of the Service departments in a stronger position to press the financial needs of the departments under his control. To the problem as it affects the position of the Service Chiefs we return later.

(3) We have already drawn attention to the constitutional problem involved in the failure of Governments which commanded large majorities in Parliament to resist popular opposition to the full measure of rearmament which they believed to be necessary. Ministers, pre-occupied by fear of the consequences which might follow an electoral defeat, were reluctant to run directly counter to the vigorous demands of an active public opinion.

This public interest in foreign affairs sprang at least in part from a just realization of the fact that this country, more than ever before, was called upon to play a determining part in the maintenance of peace and the establishment of an ordered international system. It is likely for this very reason to increase rather than to diminish. A serious difficulty, however, arises from the fact that in matters of foreign policy and defence public opinion is necessarily only imperfectly informed. Foreign policy is wise or foolish in so far as it pursues ends which are not only desirable but attainable. The actions of those responsible for the conduct of policy must be guided not only by our own resources, military and economic, but by the policy and resources of our allies and friends and by the views of the self-governing Dominions. In the public discussion of these matters Ministers must often speak with reserve and they often cannot disclose the full facts of our military strength or weakness or the confidential information imparted by friendly or Allied Governments. We have experienced to our cost the disproportionate influence which can be exercised by an organization like the League of Nations Union, which in the pursuit of objects, laudable in themselves, served to foster the illusion that it needed only aggressive speeches and "forceful" diplomacy to establish the rule of law in Europe. The impact of popular sentiment based on an unrealistic conception of our power may have disastrous consequences unless the Government can rely on the effective support of a parliamentary majority, which is sufficiently well-informed to insist that the aims of our foreign policy are not allowed to outrun either the will or the capacity to carry them into effect.

(4) We are led to the conclusion that the most serious defect from the constitutional point of view is to be found in the fact that the sources of information available to Members of Parliament were not adequate to enable them to form a reliable judgment on matters of defence. At the time of the Abyssinian crisis in 1935, the rank and

file in both Houses of Parliament were unaware of the weakness of our position. In the succeeding years, when at least a section of parliamentary opinion was becoming alive to the danger, it was still impossible for the ordinary Member of Parliament to assess with any degree of accuracy the relative strength of our own and the German air force or the deficiency of our army in tanks and mechanized divisions. Parliament was at a grave disadvantage compared with Ministers who, since 1924, had received the annual reports of the Chiefs of Staff Committee and had access also to confidential reports from the Foreign Office. It is true that in 1935 some light was thrown on the situation by the publication of the first White Paper on defence. These public statements, which were produced to justify the policy of rearmament, were necessarily guarded and drawn up in general terms, and opinion, both inside and outside Parliament, was slow to adjust itself to the new situation. There were doubtless many among the Opposition parties who would in no circumstances have supported the armaments proposals of the Government because they disapproved of its policy. But we have no doubt that a firm majority could have been secured in favour of a vigorous defence policy had Members of Parliament, at a sufficiently early date, been able to understand the true gravity of the danger by which the nation was faced. However this may be, it is clear that Parliament cannot divest itself of the ultimate responsibility for the actions and omissions of a Government which it maintains in power.

The constitutional difficulty arises from the fact that Parliament has no means of judging the competence of the expert advice upon which the Government relies, or the extent to which the views of the Service Chiefs have been overidden for political or other reasons. The Service Chiefs, moreover, may find themselves in an extremely difficult position. If their advice is neglected and the security of the nation endangered by inadequate provision for defence, their only means of protest is to resign. But, even so, they cannot enlighten the public as to the true reason for their action. They may well hesitate to take an extreme course, knowing that the only result may be the appointment of more complacent but less competent experts.

We are agreed, after careful consideration of the difficulties and disadvantages of the present system, that the principle of ministerial responsibility must be maintained and that the official advisers of the Government can in no circumstances be allowed publicly to express their views or in any way to dissociate themselves from the policy of the Government.

For this reason we have rejected a proposal which was laid before us for the appointment of a special Estimates Committee of the House of Commons to consider the Foreign Office and Service votes. It was suggested that this committee should hear evidence from the Chiefs of Staff and the permanent officials of the Foreign Office, and that it

should report to the House of Commons whether the Estimates were or were not sufficient, in view of the commitments of this country and the general diplomatic situation. It was argued in support of this proposal that it would enable a substantial number of private members of all parties, and presumably the most influential among them, to become familiar with the realities of foreign policy and the strength of our armaments and those of foreign Powers. Further, it was urged that the mere existence of such a committee would strengthen the position of the Service Chiefs *vis-à-vis* a weak Government which might otherwise be tempted, in pursuit of an electoral advantage, to evade an unpopular policy of expenditure on armaments.

Apart from the overriding objection which we have already stated, we are opposed to such a scheme on the ground (1) that it would not be prudent to allow so wide a discussion of secret information, and (2) that discussion in a parliamentary committee would in all probability follow party lines and would, therefore, defeat the purpose we have in view. A parliamentary committee without access to secret information would, we think, be even more open to this objection. Such a committee might, moreover, serve to allay anxiety when for the safety of the nation anxiety ought to be acute.

We are, however, agreed that every effort should be made to secure by other means the advantages claimed for this proposal.

The machinery already available in the Committee of Imperial Defence could, we think, be extended to provide the necessary contact between the Government and the Opposition and to enable responsible statesmen of the principal political parties to gain a closer insight into the problems of national and imperial defence. In the Committee of Imperial Defence it is customary for the Service Chiefs to state their views quite openly. It is in fact their duty to give advice to the Prime Minister as Chairman of the C.I.D., just as it is the duty of officials within a department to give their advice to Ministers. We suggest that leading members of the Opposition should be invited to join a special sub-committee of the C.I.D. to consider the needs of national and imperial defence. By this means it would be possible for the party leaders to meet on neutral ground, and it is to be hoped that a frank discussion of the facts might lead to an agreed policy. The attendance of Opposition leaders at such discussions is not without historical precedent. We suggest that in future a regular annual report should be issued and debated in Parliament. The value of the proposal we make rests largely in the fact that the discussions of the special sub-committee would be held continuously and would not be confined to times of pressing emergency. We recommend therefore:—

(1) that a standing sub-committee of the Committee of Imperial Defence should be appointed by the Prime Minister to consider the measures necessary for securing an adequate national and imperial defence organization;

(2) that the sub-committee should be presided over by the Prime Minister, or by the Minister of Defence acting as his deputy, and that it be composed of the appropriate members of the Government, of whom the Foreign Secretary must be one, and of the leaders of the Opposition, who should be Privy Councillors;

(3) that all the relevant information should be laid before the sub-committee, including regular annual reports from the Chiefs of Staff Committee, and that the Service Chiefs and high officials from the various departments should attend in an advisory capacity;

(4) that this sub-committee should produce an annual report on the adequacy of the national and imperial defence organization in the light of the existing international situation; that this report should be published and debated in Parliament; and that in the House of Commons the debate should precede the presentation of the Estimates for the Service departments; and

(5) that the annual report should be signed by all members of the sub-committee, including the Opposition leaders, unless they definitely disagree with the conclusions contained therein.

We attach great importance to the proposal that the Opposition leaders should be invited to sign the report and so to undertake a measure of responsibility for national and imperial defence. It is in accordance with the best traditions of British statesmanship that certain great national interests—Defence, India, the Colonies and the relations with the self-governing Dominions—should stand above the normal operation of party politics. It is to be hoped that the unhappy experience of the immediate past will strengthen the desire of all parties to achieve some measure of agreement also on the vital issues of foreign policy. But this clearly is not a constitutional question. When opinions are divided, no constitutional machinery can prevent the differences being fought out on party lines. This consideration does not, we think, apply to the all-important matter of defence. The issues involved are largely technical, and for this very reason there should be little occasion for differences of political opinion once the facts of the situation are clearly understood.

The acceptance by the Opposition leaders of a certain measure of responsibility for ensuring the security of the nation and Empire would not in itself prevent them from criticizing freely the foreign policy of the Government, should they wish to do so. There is no inconsistency in admitting at any given time that the situation as it is, demands certain defence preparations while seeking support from the electorate for an alternative policy intended to create a new situation in which the defence requirements might well be different.

The public debate of the report on defence would involve a certain risk of the disclosure of confidential information but the risk,

in our opinion, is far less than the danger resulting from an ill-informed Parliament and public opinion. In the debate it would be necessary for those who had attended the sub-committee of the Committee of Imperial Defence to exercise a certain reticence as is now the case with Ministers. It should, however, be possible through the normal contacts between party leaders and their supporters gradually to build up a better-informed and more responsible parliamentary opinion.

We are agreed, moreover, that the proposal we make would prevent Parliament in the future from supporting, owing to lack of information, a defence policy under which even the arms we have are out of date and the establishments provided for in the Estimates are under-equipped. These matters would be brought to the notice of the sub-committee by the annual report of the C.O.S. Committee, and we are confident that, so long as the lessons of the war are not wholly forgotten, the leaders of the Government and the Opposition would not tolerate such a state of things.

The success of any constitutional reform will always depend on the circumstances in which it is inaugurated and on the conventions which arise from it. It is highly questionable whether any constitutional device could have saved us from the errors and dissensions of the inter-war period. The outbreak of war in 1939 put an end to these differences. If a reasonable measure of agreement can be preserved for some years to come it may be hoped that an improved machinery of government may foster a sound constitutional practice by which Government and Opposition are prepared to co-operate on vital matters of national defence. Recent scientific developments have made it all the more essential that this agreement should be maintained. This country can play her proper part in securing the safety of the Empire and Commonwealth and in seeking means to control the destructive powers of mankind only if she can keep in the forefront of technical advance and if her Government is supported by the confidence of the nation.

2. Economic Policy

"The misfortunes of individuals and of kingdoms that are laid open and examined with true wisdom are more than half redressed." WILLIAM Pitt, 1783.

The British Governments of the inter-war period were confronted by economic problems of a nature and on a scale never before experienced. Their failure to deal adequately with these problems was not, in our opinion, primarily due to constitutional defects. There is little indication that Governments were hampered by administrative difficulties in the execution of policy, and many new types of organization were in fact developed to deal with particular problems. The success of our war-time economy is in itself evidence that once a definite economic policy has been decided upon there is no great

difficulty in devising the political machinery necessary to carry it into effect.

The main causes of economic disturbance were international in origin and could not, therefore, be solved by the individual action of any one Government. For Great Britain especially it was impossible to achieve prosperity as a "closed economic system". We had maintained a high standard of living in a densely populated industrial country only because we were able to import large quantities of foreign goods, especially foodstuffs and raw materials. To pay for these imports we relied upon our own export trade, upon the profits of our shipping, commercial and banking activities and upon the revenue derived from foreign investments. British Governments looked naturally to the re-establishment of a stable system of international exchange and to the revival of world trade as the first step to our own domestic recovery. But the wisest policies may suffer shipwreck, if their execution depends upon the co-operation of foreign countries upon which we can exercise only an indirect and imperfect influence. In spite of these international complications a comparatively rapid, though admittedly partial recovery was achieved after the acute depression of 1930 to 1931. This was partly due to the cheap money policy adopted by the Government, but it testifies also to the resilience of British industry.

This is not to say that there were no mistakes in policy. These mistakes can, we think, be partly attributed to the fact that the development of economic theory did not keep pace with practical necessities. Economists have modified their theories progressively in the light of the complicated series of events which, after a prolonged period of dislocation and maladjustment, led finally to the crisis of 1930. But it is only within the last ten years that some measure of agreement has been reached between experts. The failure of Governments to respond more rapidly and more vigorously to the needs of an entirely new situation may be partly due to lack of flexibility on the part of their official advisers, but this caution in the adoption of new and unorthodox remedies is scarcely surprising in view of the uncertainty and contradictions of expert opinion.

It is not our task to advocate the merits of any particular economic policy, and it is evident that the machinery necessary to carry the decisions of the Government into effect must depend upon the nature of the policy adopted. The sphere in which we can make recommendations from the constitutional point of view is, therefore, strictly limited. To take only one example: in 1932 the Import Duties Advisory Committee was established to administer the tariff policy then inaugurated; this body admirably fulfilled its main function which was to ensure that the imposition of import duties should be determined entirely by economic considerations and that the regulation of the tariff should not become a subject of political bargaining. But should our economic policy in the future be based upon a different system of

international trade, a corresponding change in political machinery would be necessary. It is clearly not possible within the scope of the present inquiry to discuss the different institutions which might be devised to carry into effect various hypothetical policies.

We accept this limitation with the greater willingness because we have been led to the conclusion that the main defect is to be found not in the machinery for the execution of policy, but in the lack of adequate provision for investigation and inquiry as a preliminary to action. Our chief concern in the future should be to ensure that the institutions of Government are well designed to enable those responsible for the initiation of policy to base their decisions upon an informed and comprehensive consideration of all the available evidence.

I. ADVISORY BODIES FOR INVESTIGATION ON QUESTIONS OF POLICY

One of the main problems is to secure adequate contact between government departments and outside expert opinion. The problem is twofold: on the one hand, to give experts an opportunity to develop their ideas in the light of current economic and political phenomena; on the other, to ensure that the results of recent advances in economic and technical knowledge be made available to the Government when framing its policy. Valuable experiments were made by the Governments of 1919 to 1939 in both these directions and, although some of these experiments were only partially successful, their results should prove instructive for the future.¹ A distinction must be drawn between those advisory bodies which deal with major questions, affecting the economic or financial policy of the country as a whole, and those concerned with departmental inquiries affecting a particular industry such as agriculture, mines and textiles. On the whole there appears to have been ample provision for conducting specific inquiries into particular problems, but an absence of adequate machinery to ensure that the knowledge thus acquired is effectively applied to the central direction of policy.²

(a) Royal Commissions and *ad hoc* Committees of Inquiry

During this period of economic difficulty frequent use was made of Royal Commissions and other *ad hoc* inquiries partly for preliminary investigation and partly to work out the ways and means of implementing a policy the general character of which had already been decided upon. As might be expected the latter proved the most effective.

¹This whole subject is exhaustively dealt with in "Advisory Bodies" A Study of their Uses in Relation to Central Government, 1919-1939", edited by R. V. Vernon, C.B., and M. N. Mansergh, B.Litt., M.A., D.Phil. George Allen and Unwin, 1940.

²These include not only Royal Commissions but bodies appointed to advise particular departments in so far as their investigations affect questions of general policy, i.e., the various Treasury Committees of advice.

The recommendations¹, of the May Committee on National Expenditure (1931), for instance, were for the most part carried into effect. The Government was fully convinced of the need for economy before the Committee was appointed. This being so an investigation covering the whole range of government expenditure by an authoritative and impartial body proved extremely useful.

More immediately relevant are the various attempts that were made to enlist the help of outside experts in discovering the causes of economic depression and the means by which recovery should be sought. The Balfour Committee on Industry and Trade was appointed for this purpose² in 1924. It conducted an exhaustive inquiry into every branch of industry and commerce, and during the next five years produced a series of detailed reports, which have doubtless proved as valuable to enlightened industrialists as they have to students of practical economics. The Committee, however, made but few specific recommendations, and it cannot be said to have had more than an indirect influence on the policy of the Government. The same is true of the Colwyn Committee on Finance and Taxation³ which was appointed in 1924 to report on the National Debt and the incidence of existing taxation "with special reference to their effects on trade, industry, employment and national credit". The Committee produced a detailed analysis of the mechanism and principles of British public finance. The main contention of the Committee—that the burden of public debt was not a substantial cause of industrial depression—does not appear to have carried conviction in official circles.⁴

Particularly interesting is the experience gained in the development of monetary policy. It is in this sphere that Government policy has been most open to criticism, and it is in this sphere also that consultation with bankers, with the City of London and with commercial and financial experts was most obviously desirable. The Cunliffe Committee⁵, appointed in 1918 to consider the question of currency

¹Committee on National Expenditure (Treasury) appointed 1931. *See Report Cmd. 3920, 1931.*

²Committee on Industry and Trade (Board of Trade) appointed 1924. Final Report. *Cmd. 3282, 1929.*

³Committee on National Debt and Taxation (Treasury) appointed 1924. *See Report. Cmd. 2800, 1926.*

⁴A. J. Brown. "The Use of Advisory Bodies by the Treasury." Vernon and Mansergh. *op. cit.* Page 107.

⁵Committee on Currency and Foreign Exchange after the War. Appointed 1918. *See Report. Cmd. 464, 1919.*

cf. "unless the machinery which long experience has shown to be the only effective remedy for an adverse balance of trade and an undue growth of credit, is once more brought into play there will be a very grave danger of credit expansion in this country and a foreign drain of gold which might jeopardize the convertibility of our note issue and the international trade position of the country. The uncertainty of the monetary situation will handicap our industry, our position as an international financial centre will suffer and our general commercial status in the eyes of the world will be lowered."

and exchange, reported strongly in favour of an early return to the pre-war gold standard. The members of the Committee were dominated by the remembrance of the pre-war success of the system. They envisaged no obstacle which the war might have put in the way of its continued success. They argued that the first necessity was the need for confidence in the international money market. Since London had been the centre of the system, the stability of sterling was of paramount importance. If it were not achieved Great Britain would lose her place in the financial structure of the world. In 1925 the return to the gold standard was carried into effect, a small Committee under the chairmanship of Sir John Bradbury, Permanent Secretary to the Treasury, definitely advised a return to the pre-war parity.¹

It is now a matter of general agreement among economic experts, that an important cause of depression in British industry—and especially in the export trades—between 1925 and 1929 was the over-valuation of the pound sterling and the subsequent stabilization of certain foreign currencies at a level which was disproportionately low. There appears, however, to have been complete agreement at the time between the Treasury officials and the outside experts who were members of the Cunliffe and Bradbury Committees. But the majority of these experts were bankers and the arguments put forward were predominantly bankers' arguments. There is no evidence that industrial or commercial opinion was consulted when the decision was taken to re-establish the pre-war parity in 1925.

The continuance of a high level of unemployment and the consequent public criticism of the Government's policy led in 1929 to the appointment of the Macmillan Committee on Finance and Industry.² The composition of this body was far more varied than that of the Cunliffe Committee. It included Treasury officials, academic economists, members of the Trade Union and Co-operative movements and men distinguished in banking, industry and commerce. During the course of its deliberations the particular difficulties of British industry and trade were overshadowed by the world crisis of 1930, and the attention of the Committee was therefore directed to the investigation of these wider problems.

The Committee recommended the application of new and hitherto untried methods of credit control to counteract the fluctuations of the trade cycle and so to maintain an approximately stable

¹Committee on Currency and Bank of England Note Issue. Appointed 1924. See Report. Cmd. 2393, 1925.

(Sir Austen Chamberlain was originally chairman of this Committee, but his place was later taken by Sir John (afterwards Lord) Bradbury.)

²Committee on Finance and Industry appointed 1931. See Report. Cmd. 3897, 1931.

level of prices and employment.¹ Some members of the Committee, and notably Lord Keynes, went further than this in advocating a policy of credit expansion and capital investment under government auspices to meet the particular problem of unemployment in this country and to stimulate industrial activity.² That a considerable measure of agreement was reached on so controversial a topic is in itself remarkable, especially in view of the variety of points of view represented on the Committee and the number of different interests which were consulted. It is, however, significant that Lord Bradbury, who presumably represented the Treasury point of view, and who had played a leading part in the two previous inquiries, remained unconvinced. In a memorandum of dissent he argued strongly in favour of strict adherence to orthodox methods of public finance. "The best contribution", he maintained, "which the State can make to assist and promote employment is strict economy in public expenditure and lightening the burden of debt by prudent financial administration." The two most distinguished experts on the Committee, Lord Keynes and Lord Bradbury, in fact drew diametrically opposite conclusions from an analysis of the same economic data.³ We have dwelt upon this point because it illustrates the difficulties by which a Government may be faced even when it uses every available method of consulting those who have practical experience and theoretical knowledge of the problem under consideration.

The recommendations of the Macmillan Report had little effect

¹"Our view is, therefore—that the recent world-wide fall of prices is best described as a monetary phenomenon which has occurred as the result of the monetary system failing to solve successfully a problem of unprecedented difficulty and complexity set by a conjunction of highly intractable non-monetary phenomena." Reporting in a different sense to the Cunliffe and Bradbury Committees, the Committee points out "that the difficulties of our national problem was much increased by the relative over-valuation of the pound sterling and under-valuation of many other currencies. But the satisfactory handling of the international problem, even if it were theoretically practicable might have required a degree of prescience which no one in fact possessed or could have been expected to possess".

²Lord Keynes and his associates suggested that such a policy might with advantage be combined with the regulation of imports and with export-subsidies in order to ease the difficulties of the foreign-trade balance.

³Lord Bradbury, in common with the other members of the Committee, drew attention to the abnormal increase in liquid investment as the outstanding symptom of depression. He argued that this was the result of excessive Government borrowing and maintained that the appropriate remedy, therefore, was not credit manipulation but economy of public money. Lord Keynes, however, pointed out that the amount of new investment does not necessarily correspond with the amount of savings. In a time of depression lack of confidence leads to hoarding and to a preference for liquid assets against long-term investment. A stimulus to capital investment would not, therefore, in the long run lead to a rise but to a fall in the rate of interest. "The rate of interest must tend to fall as the accumulated wealth and prosperity of the country in the shape of capital assets increases." It is impossible for the community as a whole to build up surplus financial assets unembodied in any physical form.

upon the Government's policy at the time. This may be attributed partly to the fact that, since the members of the Committee still pinned their faith to the maintenance of an international gold standard, their most important proposals could be carried into effect only by international co-operation. For such co-operation the time was unpropitious. Confronted by the immediate emergency resulting from the financial crisis of 1931, the Government was forced to improvise its policy under the pressure of events. The departure from the gold standard was a far more revolutionary step than anything advocated by the Macmillan Report, but the decision was taken without any official reference to outside opinion. This is true also of the subsequent development of monetary policy. It must, however, be remembered that the relation between the Treasury and the Bank of England had by this time become so close that it is no longer possible to talk of the Treasury's consultation with the Bank as a process of obtaining outside advice.¹

The experience gained in the use of Royal Commissions and other *ad hoc* committees leads to the conclusion that they were often appointed too late and that their deliberations were too slow to enable them to exercise any effective influence on current policy. This does not mean that the work was entirely wasted. The Macmillan Committee in particular was the means by which an important advance in economic knowledge was made. The Report contains the foundation of a modern theory of the Trade Cycle.² Its publication did much to enlighten public opinion and to prepare the way for the more advanced theories on the causes of mass unemployment and the remedies against fluctuations in business activity which have been endorsed by the White Paper on Employment Policy issued by the Coalition Government in 1944.³ The roots of the old theory had struck deep, and it is not surprising that official opinion should be slow to accept the validity of other views, based often on a highly abstract argument. It is evident, however, that if the Government in framing its economic policy is to keep pace with the march of events it cannot afford to rely on the advice of committees of inquiry, which are often appointed only after the evils which it is intended to remedy have become intractable.

(b) Proposals for a Permanent Economic Advisory Body

It is, we think, essential that the Government should be able to rely on the services of a permanent organization for economic research

¹A. J. Brown, *op. cit.* Page 102 (Vernon and Mansergh. Eds.).

²Keynes' "Treatise on Money" was published before the Macmillan Report in 1930, but his "General Theory of Employment Interest and Money" in which the modern theory of "effective demand" is fully developed, was not published till 1936.

³Employment Policy. Cmd. 6527, 1944.

and advice. A sudden return to an automatic self-regulating system is clearly impossible, and the recognized need for careful supervision and control in the time of transition is in itself a justification for the proposals we make. It appears, however, that all parties which were members of the late Coalition Government have definitely accepted the more recent postulates of economic theory in two important directions:—

(1) that a high and stable level of employment can be secured in conjunction with a system of individual enterprise, only if the Government is prepared to use the available instruments of monetary policy, public finance and public investment, with the deliberate intention of maintaining a proper equilibrium between productive capacity and effective demand.¹

(2) that the re-establishment of a satisfactory system of international trade and exchange will require the active co-operation of the Government and that in the meantime government assistance will be necessary in fostering the revival of British overseas trade and particularly in encouraging a maximum expansion of exports to cover necessary imports.

If these presumptions are correct it is clear that the Government must keep itself constantly informed of the condition of trade and industry, that it must keep a close watch on the international situation and that it must have access to the most recent statistical knowledge. The Cabinet must be in a position to adjust its current policy to the changing circumstances of a highly complex economic system, and to base its long-term policy upon a due consideration of the results achieved by expert economic investigation.

The need for an efficient information service was in fact recognized during the war and has been met, at least in part, by the establishment within the Cabinet Secretariat of something approaching a centralized department for the co-ordination of economic and statistical knowledge.² The "Cabinet Office" has secured the services of an

¹See Employment Policy. Pages 15 et seq.

On this whole question see also an able study by F. A. Burdhardt, "The Causes of Unemployment", published in "The Economics of Full Employment", "Six Studies in Applied Economics prepared at The Oxford University Institute of Statistics". Basil Blackwell, 1944.

²The nearest approach to a central organization for economic research and advice in the pre-war period was the Economic Advisory Council, appointed in 1930 "to advise His Majesty's Government on economic matters, to make a continuous study of developments in trade and industry and in the use of national and imperial resources". The Council consisted of academic economists, industrialists, bankers and members of the Trade Union and Co-operative Movements. The Prime Minister was the nominal Chairman and the Ministers of the appropriate departments were also members. On the whole the results were disappointing. The Council was set up during a time of acute depression and it attempted to improvise remedies which, if applied at all, should have been the result of a long-term policy. A more important cause of failure was the fact that there was too little contact between the outside experts and the official advisers of the Government.

expert staff of economists and experienced Civil Servants have been drafted from other departments. It is the duty of the economic and statistical sections not only to collect the necessary information but to present it to Ministers in a clear and comprehensible form. We suggest that this existing machinery might be used in the organization of an "Economic General Staff" under the direct supervision of a ministerial committee. We recommend therefore:—

- (1) That a Standing Committee of Ministers from the appropriate departments should be established under the chairmanship of the Chancellor of the Exchequer, to supervise the work of economic research, to consider the material prepared by the expert bodies under its control, and to present regular reports to the Cabinet on the state of industry, trade and agriculture, on the working of the financial system and on the international implications of economic policy. That regular reports should also be presented to Parliament.
- (2) That the existing organizations of the Economic Department and Statistical section of the Cabinet Secretariat should be put at the disposal of the new Committee and that sub-committees should be appointed for the investigation of particular problems.
- (3) That representatives of industry, commerce, banking and organized labour should be associated with officials from the departments concerned, in the work of these sub-committees, and that outside experts should be invited to co-operate in the preparation of their reports.

The success of this last proposal will depend largely on the extent to which the Government is able to secure the co-operation of able and representative men from private industry and trade. The participation of those who have practical experience of labour conditions is no less important. We suggest, however, that this result can be best achieved by allowing complete freedom to the Government in the appointment of the sub-committees. Experience has, moreover, shown that outside experts can exercise a much more effective influence if they are closely associated with the work of officials and are not appointed to separate committees designed to represent particular interests.

We consider it essential that the Foreign Secretary, or the appropriate Minister who may be responsible for External Affairs, should be a member of the standing committee, that high officials from the Foreign Office should be appointed to the sub-committees and that these committees should have access to the information which the Foreign Office is able to supply concerning economic and social conditions in foreign countries. It should also be possible to secure the help of Dominion and Colonial Governments.

Co-operation of this kind is necessary not only from the point of view of economic policy but for the successful conduct of foreign and imperial affairs. Economic, social and financial problems must in future play an increasingly important part in foreign and imperial policy. As Sir Victor Wellesley has pointed out "the more highly organized an industrial State becomes the more will its economic and social needs come to dominate its foreign policy".¹ International co-operation with friendly nations in the political sphere will be impossible without agreement on economic matters, and it is essential, therefore, to ensure that the "paramount importance of foreign policy" is not lost sight of and subordinated to domestic considerations.

Our own material prosperity, moreover, will depend very largely on the existence of an international situation which from the political and economic point of view is not unfavourable to the development of British trade and enterprise. Those responsible for the conduct of foreign affairs must therefore be in a position to understand the economic needs of this country, of the Empire, and of those nations with which we seek to maintain close and friendly relations. Producers in the export trades must be able to obtain authoritative guidance so that they may take full advantage of all available opportunities for the development of foreign markets. It may on occasion be necessary to subordinate our commercial interest to considerations of international policy, but, if this is done, it should be done deliberately after careful consideration of all the factors involved.

The real distinction in the work of government at the present time is not so much between "home" and "foreign" affairs as between the things which we can do by ourselves and the things which we can only do by agreement with other countries. The close economic collaboration with allied countries, which was built up during the war, has often made it necessary to negotiate on a wider basis than is possible by ordinary diplomatic methods, as in the implementation of the Lend Lease Agreement and in the work of the Commonwealth Supply Council and of the Emergency Economic Council of Europe. But there is always a danger in such negotiations that departmental views may be put forward without proper regard for the interests of other departments. Since international co-operation of this kind, albeit in a somewhat different form, is likely to continue it is essential that the policy of the Government should be worked out as a coherent whole and consistently followed by the different departments concerned. This

¹See "Diplomacy in Fetters", by Sir Victor Wellesley, K.C.M.G., C.B., pages 194, et seq., also articles by the same author on "Foreign Office Reform", *Truth*, March 19 and 26, 1943. The proposals which we make would not preclude the setting up of "a politico economic intelligence department" within the Foreign Office on the lines suggested by Sir Victor Wellesley, but we consider that the Chancellor of the Exchequer, and not the Foreign Secretary, should be responsible for the central organization which would deal with *all* aspects of economic policy.

correlation of policy can, we suggest, be achieved through the machinery of departmental organization which we have already discussed,¹ but it will be much facilitated by the provision of a central organization for economic research.

It is, we think, a matter of great importance that Parliament should be given ample opportunity of discussing the economic policy of the Government in light of the information prepared by the Economic Advisory Body and to consider the merits of various alternative policies. We suggest that an annual report should be presented and debated in Parliament before the presentation of the Budget so that the financial proposals of the Government can be considered in relation to the economic situation as a whole. Interim reports should also be presented as particular questions arise.

One of the main difficulties of democratic government rests in the fact that public opinion follows but slowly in the wake of expert opinion. A theoretical principle once it has gained popular credence may be debased into a mere slogan. "Free trade", "protection", "public works", "full employment" are taken up as political catchwords, and the Government, no matter to what political party it belongs, may find it difficult to adopt new methods in the light of changing circumstances. The successful conduct of economic policy will demand the active co-operation of private industry, of local authorities and of other public bodies, and this cannot be attained unless there is a clear understanding of the purpose in view. Any system of State control, however indirect, will lead to friction and opposition if there is reason to suspect that the welfare of the individual is at the mercy of those who exercise a hidden power of financial manipulation, or that the success or failure of any particular form of enterprise may be subject to the arbitrary decisions of anonymous experts and officials. Only a Government which is strongly backed by an informed public opinion will be able to steer successfully between the rocks of inflation and deflation.² It is essential, therefore, that the Government should take

¹See above, page 65, et seq. See also proposals for the amalgamation of the Diplomatic and Consular Service, page 79.

²During the period of industrial depression public opinion was on the whole sceptical of proposals to "cure unemployment" by public works. Recently, however, the theory of "full employment" has been so successfully popularized that there is little likelihood of serious opposition to a policy of planning long distance development schemes. The Government presumably will seek to keep the economic system on an even keel by offsetting deficiencies in private, by public investment and *vice versa* (see White Paper proposals, loc. cit.) should, however, a situation arise in which the productive resources of the nation are fully employed but demand, none the less, outruns the supply of goods available for consumption, and capital investment, it may, for political or social reasons, be found difficult to check an inflationary tendency by postponing expenditure which appears useful, and indeed necessary. Similar difficulties would be experienced if the foreign trade position should lead to a shortage of raw materials and consumption goods.

Parliament fully into its confidence by laying before it the evidence on which its own decisions are made. If this is done without reservation, it may be hoped that members of both Houses will be able to play a constructive part in the framing of policy and in the education of public opinion.

2. DEPARTMENTAL INQUIRIES

The establishment of a Central Information Service, such as we have described, would not diminish the need for expert advice, and for the consultation of interests, by individual government departments.

(a) Scientific and Technical Experts

It will, we think, be found that in the future the Government will be called upon to play an increasing part in the promotion of scientific research. Quite apart from the question of preserving secrecy in matters affecting the defence Services, it is evident that the resources necessary to develop modern scientific discoveries may well be beyond the grasp of independent scientific bodies and private industrial research organizations. The question, important though it is, does not in our opinion raise any serious constitutional issue but is rather a matter of policy. The Government is able, if Parliament so determine, to put adequate resources at the disposal of its own scientific experts in the departments concerned. This is, we think, a better method than the establishment of a single central research department as was proposed by the Haldane Committee. The Department of Industrial and Scientific Research should, however, be consulted in order to prevent overlapping and duplication of work.

It should, moreover, be remembered that the original contributions to knowledge which have led to far reaching advance—whether in biology, physics or any other field—have usually been made by independent scientists who were not in the first instance concerned with the practical application of their discoveries. It is, therefore, important that the resources of the Government should not be used to establish what might, in time, become a virtual monopoly of scientific research. It is far better, if the sources of independent endowment are inadequate, that the Government should give generous subsidies to learned institutions without attempting to impose any direct control over the organization or work of these bodies. Such a policy can be carried out through the agency of the Department of Industrial and Scientific Research, the Medical Research Council and the Universities Grants Committee.

We do not think that difficulties are likely to occur in regard to purely technical matters. It is the ordinary practice of Government

departments to seek advice from outside experts, since it is obviously impossible to maintain a full-time staff of official experts competent to deal with every technical question that may arise. In some cases it has been found convenient to maintain a permanent panel of independent experts attached to the department. More often outside experts have been appointed to small *ad hoc*, or standing, committees as occasion arises. The latter method has the advantage of enabling the department to draw its advisers from the widest possible field. The most highly skilled technicians and experts are often prepared to lend their services for a particular purpose, but they can scarcely be expected to undertake any general obligation to interrupt their own work at the request of a government department.

These technical committees of inquiry usually act rapidly and efficiently since controversial questions of general policy are not involved. Examples of the kind of body we have in mind are the various committees appointed by the Board of Trade to give advice on the control of companies and patents, on the use of gas and on the shipment of dangerous goods and explosives, and those used by the Ministry of Agriculture to deal with the causes and prevention of agricultural pests and animal diseases. Reference to any list of consultative committees will serve to show the extent to which government departments are accustomed to rely in their day to day work on the skill and experience of non-official technical advisers.¹

(b) Industrial Representation

More important from our point of view is the problem of securing adequate contact between government departments and the multifarious branches of industry, trade and commerce with which they have to deal.

It has sometimes been suggested that this end could best be achieved by the establishment of a representative council or "industrial parliament". Permanent consultative committees are the nearest approach to such an institution that has been tried in this country. On the whole the results have been disappointing. The outstanding exception is an advisory body which is in no way connected with economic policy—the Consultative Committee of the Board of Education. This Committee has played a useful part in the investigation of particular questions and has also, on occasion, influenced and even guided the general policy of the Board of Education. The Committee consists of eminent men and women with long experience of different branches of education. Its members may differ in opinion but they have, upon the whole, a common end in view and are not concerned with the representation of interests. The Board of Trade Advisory Council, although it has had no such direct influence on the formulation of

¹See Vernon and Mansergh, op. cit. Appendix, pages 443, et seq.

policy, has also served a useful purpose in maintaining contact between the department and the leaders of industry and commerce. It is a comparatively small body which meets at regular intervals and does not attempt to represent particular trades.

The most ambitious attempt to establish a permanent advisory body for the representation of interests has in fact proved the least successful. The Council of Agriculture for England, established in 1919, was intended to act as a kind of agricultural Parliament.¹ Its failure may be attributed partly to the difficulty of securing adequate representation of the different sections of the industry, which are often only imperfectly organized, but still more, to the natural unwillingness of practical farmers to leave their work and congregate in London in order to take part in general discussions which may have only a remote connection with their own immediate problems.

Similar difficulties are likely to occur whenever an attempt is made to secure the simultaneous representation of a large number of sectional interests. If regular meetings are held even though there is no immediate issue to be discussed, the deliberations of such a body will lead to an inconclusive debate on general topics. If, however, the Government is seeking information in regard to some particular problem many of those present will lose interest and resent the loss of time involved in the detailed discussion of matters in which they are not concerned. Clear statements of fact can, we think, be best secured by direct approach to the industries concerned.

It was, even before the war, the normal practice of government departments when preparing legislation or making decisions of policy to consult any Trade Union, Co-operative Society, Trade Association or other organization which might be affected. In dealing with large, well organized industries there is little danger that the views of those concerned will not be weighed and considered. When the Government undertook to assist in the reorganization of the cotton industry the Board of Trade acted throughout in close co-operation with the Joint Committee of the Cotton Trades Organization. The scheme which

¹The Council consisted of 150 members who were nominated partly by the County Agricultural Committees and County Borough Agricultural Committees, partly by the Agricultural Wages Board and partly by the Ministry of Agriculture and Fisheries. Provision was made to ensure representation for landowners, farmers and workers. In practice the Council proved far too cumbersome, it met only at infrequent intervals and its debates degenerated only too easily into recriminations between the representatives of different interests. It was hoped that these defects might be overcome by the appointment of a small standing committee which could meet more frequently and conduct a continuous survey of agricultural policy. The Committee did in fact produce some useful reports but it failed to win the confidence of the industry. The credit of both the Council and the Committee was irremediably damaged by the resignation in 1924 of the members of the National Farmers' Union on the ground that neither body was in fact representative of British Agriculture.

See Angus Mackintosh, "The use of Advisory Bodies by the Ministry of Agriculture and Fisheries." Page 397, et. seq. (Vernon and Mansergh, Eds.).

was adopted in the Cotton Spinning Industries Act (1936) was actually prepared by a representative committee of the Master Cotton Spinners' Association, and the Joint Committee of the Cotton Trades Organization was largely responsible for the draft proposals subsequently embodied in the Cotton Industry (Reorganization) Act (1939). In both cases the Government's proposals were submitted for approval to a ballot of producers in the industry before they were presented to Parliament. The various Acts dealing with the organization of the coal industry, also, were prepared after exhaustive negotiations with employers' and workers' organizations. It is, of course, essential in all cases that the Government should retain the right to make independent decisions and, if necessary, to reject the advice offered.

The main defect of these methods was their lack of continuity. It often happened that special inquiries were instituted and that particular industries were consulted only when the problems to be dealt with had become acute. The need for a regular exchange of ideas between the representatives of individual industries and the government departments concerned, became obvious at the outbreak of war. Some of the methods used were suitable only for the exceptional circumstances in which they were devised, but others may, we think, prove of permanent value.

In some departments—notably the Ministry of Supply—temporary Civil Servants were recruited from private firms. This was necessary in the various Control Boards since it would have been impossible to find officials with sufficient practical knowledge of industry and commerce to undertake the purchase and allotment of materials. None the less this form of administration has obvious disadvantages. The temporary Civil Servants drawn from particular firms did not represent their industries as a whole and, however impartial their decisions might be, they were open to criticism by those who had been their business competitors. Although the need for this kind of control will end as soon as the shortage of materials is overcome, we draw attention to the point because it illustrates the importance of maintaining a clear distinction between the representation of industry and the provision of expert knowledge within a department. In so far as first class men are prepared permanently to sever their business connections and to bring their industrial experience into the government service, they should be included among the special recruits mentioned in our discussion of Civil Service organization. But the number of those who are willing to do so in time of peace will not, probably, be large. This makes it all the more necessary that permanent Civil Servants should be able to improve their own knowledge by direct contact with the representatives of industry and trade. In certain departments, particularly the Board of Trade, where officials in the past had specialized chiefly in commercial matters, efficient industrial

sections were built up during the war. We suggest that these specialized sections should be maintained. But it would, we think, also be useful if officials who had gained experience at home of industries concerned in the export trade, could, as far as possible, be given the opportunity of serving for a time in commercial posts abroad.

One of the most interesting developments during the war was the establishment of the Regional Organization. In the past no regular machinery existed to consider regional problems, except in so far as it was improvised to deal with the acute difficulties of the Special Areas. We would, however, point out that the Regional Production Boards were intended primarily for executive purposes. The independent business men and the representatives of labour who were appointed to sit on these Boards were usually in a minority as against the official members. It is, we think, highly desirable that some kind of regional organization should be maintained but the Regional Boards, as established during the war, cannot claim to be representative of the industries within their respective areas.

The most important advance, however, was in the self organization of industry. Many trades and industries which had hitherto been unorganized or only imperfectly organized, found it necessary to choose representatives who could put their views authoritatively before the departments with which they had to deal. The Government for its part did much to encourage this kind of organization, as, for instance, in the formation of Export Groups during the export drive of 1939 to 1940. Lasting benefit may, we think, be gained by this development which has enabled Ministers, with the aid of Civil Servants, who have special industrial experience, to keep closely in touch with those who are actively engaged in production, trade and commerce.

No good purpose would be served by multiplying institutions to represent trades and industries which have already established machinery for this very purpose. Difficulties may, however, arise in industries which are still inadequately organized. Officials may, then, find it convenient to turn for information to particular firms by whom useful advice has been tendered in the past, although they may have no authority to speak for the industry as a whole. Often a few large firms only will be consulted and serious resentment will be caused among other members of the industry who feel that their interests have been neglected. The greater the extent of government intervention in the economic life of the community, the more essential is it to ensure that those concerned in every stage of production and distribution are given the opportunity freely to express their views and that officials are protected against any imputation of personal bias or favouritism.

We consider, therefore, that the Government should in each case take steps to ensure, if necessary by legislation, that official consulta-

tion with the representatives of industry and trade should take place through the medium of some properly constituted authority and that the individuals consulted should be elected by those whom they profess to represent. The results will, however, prove unfruitful unless producers and traders are intent to co-operate by choosing as their representatives able and active men who are fully conversant with the needs of their respective industries.

(c) Administrative Bodies for the Execution of Policy

We have already pointed out that the development of economic policy has led to the establishment of a variety of new executive bodies. We have no doubt that the process will continue as new needs become apparent.

It is essential, in our opinion, that government control—in so far as it may be necessary—should be exercised through collaboration with the industries concerned and not by the extension of bureaucratic machinery. The Agricultural Marketing Acts, the Coal Mines Reorganization Acts and the Cotton Trade Reorganization Act all made use of existing, or newly constituted, producers' organizations as part of the regular machinery for carrying the decisions of Parliament into effect.¹ We would, however, once more emphasize the need of ensuring that such organizations are fully representative of the industries in the administration of which they take part. We suggest also that, in the future, workers' representatives should be included on such executive bodies and that care should be taken to ensure that proper consideration is given to the interests of consumers. This is particularly important in industries, such as agriculture, which produce for the ultimate consumer who, in contradistinction to the producer-consumer, will always tend to be unorganized and under-represented. The machinery for the protection of consumers' interests under the Agricultural Marketing Acts was, in so far as it existed at all, needlessly cumbersome and, therefore, ineffective.

An adjustment of departmental organization sometimes may be necessary to carry a particular policy into effect. The use of public development schemes as a means of counteracting the fluctuations of private investment would, for instance, involve some change in the relation between the departments by which the borrowing powers of local authorities and public utility are sanctioned. The Ministry of Health must clearly remain the department responsible for the general supervision of Local Government administration while the Ministries of Transport and Education will continue to supervise their own particular services. This need not prevent some central control by the

¹See also above, page 103-4.

Treasury to ensure that the timing of new capital investments are brought into line with the general policy of the Government. The details of such purely administrative changes do not, we consider, fall within the province of our inquiry.

In the foregoing section of our Report we have dealt with Advisory Committees only in so far as they affect the conduct of economic policy. During the course of our inquiry we have had frequent occasion to refer to the use of similar bodies in other departments of government. There is no need to multiply examples, but enough has, we think, been said to illustrate the means by which the parliamentary system is adapting itself to the needs of a complex modern society. The constant interaction of opinion between those responsible for the conduct of administration and the many and various organizations which represent the day to day interests and activities of ordinary citizens is a sure means of maintaining a vigorous and fruitful democracy.

A P P E N D I X

LIST OF PRINCIPAL RECOMMENDATIONS

THE ELECTORAL SYSTEM

“That the existing system of single-member constituencies and simple majorities should be retained.” (p. 34)

PARTY ORGANIZATION AND THE SELECTION OF CANDIDATES

“That the National Conservative Union should not recognize any local association, unless it has a subscribing membership which represents a substantial percentage of the Conservative electors, calculated on the basis of recent election results.” (p. 39)

“That it should be forbidden by law for any Member of Parliament, candidate or prospective candidate, to subscribe or give a donation to his local political association.”

“That the State should undertake to refund to candidates all election expenses on an approved scale related to the area of the constituency and the size of the electorate, and that it should be made illegal to exceed this amount as it is now illegal to exceed the statutory maximum.” (p. 41)

PAYMENT OF MEMBERS AND JUNIOR MINISTERS

“That the salary of a junior Minister should not be less than two-thirds of that of the Minister in charge of the Department.” (p. 43)

PROCEDURE OF THE HOUSE OF COMMONS, CONDUCT OF DEBATES, HOURS OF SITTING, ETC.

“That there should be one day a week reserved entirely for the meetings of committees and that the House should not sit on that day.” (p. 47)

REFORM OF THE HOUSE OF LORDS

“That the House of Lords should consist of the following categories of members:—

- (a) Hereditary peers who are the first of their creation. (p. 57)
- (b) Hereditary peers who have succeeded to their peerages, provided that they are qualified as follows:—
 - (i) By service as a Minister of the Crown.
 - (ii) By paid service under the Crown for ten years (e.g. in the Navy, Army, Air Force or Civil Service).
 - (iii) By membership of the House of Commons for ten years.
 - (iv) By membership of the Privy Council.
 - (v) By membership of a County Council or County Borough Council for ten years.” (p. 57)
- (c) Lords of Parliament for Life.

LORDS OF PARLIAMENT FOR LIFE

“That the Crown should be empowered to appoint Lords of Parliament for Life by peerages limited to the life of the person created a peer.”

“That the number of Lords of Parliament, excluding the Lords of Appeal in Ordinary, should not exceed the number of hereditary peers qualified to sit in the House of Lords.”

“That a Lord of Parliament, unless he holds an hereditary peerage of a higher rank, should have the rank of Baron.”

“That a woman appointed to sit in the House of Lords should hold the rank of Baroness in her own right.”

“That a Lord of Parliament should not be eligible for election to the House of Commons.” (pp. 59, 60)

“That the Prime Minister when advising His Majesty on the appointment of Lords of Parliament should consider the claims of eminent members of the Public Services and of leading personalities in the professions, in the arts and sciences on both sides in industry, and in agriculture.” (p. 60)

“That hereditary Scottish peers should be included among the whole body of the hereditary peerage, and should no longer elect their own representatives to sit and vote in the House of Lords.”

“That no further hereditary peers should be elected to represent the Irish peerage in the House of Lords.”

“That women should be eligible to sit and vote in the House of Lords on the same terms as men.” (p. 61)

THE CABINET AND THE ORGANIZATION OF STATE DEPARTMENTS

“That departments should be grouped under the general supervision of Ministers responsible for the co-ordination of policy and administration within each group.”

“That departmental Ministers, not being members of the Cabinet, should attend its meetings and be personally consulted when important matters affecting their departments are under discussion.” (p. 67)

THE CIVIL SERVICE—ORGANIZATION

“That the title ‘Head of the Civil Service’ should be abolished, and that the general control of the Civil Service should be vested in a new department.”

“That the functions now exercised by the Civil Service Commission should be transferred to this new department together with the work now done by the Establishments Branch of the Treasury, and that the administration of the Civil Service as a whole should be entrusted to it.”

“That at the head of this department there should be a Minister of the Crown, who should be responsible for all Civil Service matters; that he should be a Member of one or other House of Parliament, but not necessarily a Member of the Cabinet.”

“That appointments to the higher posts in the Civil Service should be made on the recommendation of the Minister in charge of the department concerned, with the approval of the Prime Minister.”

“That, in order to afford the Minister in charge of the department and the Prime Minister the necessary information and advice for making such appointments, a Selection Board should be set up, the task of which would be to make recommendations to the Minister and Prime Minister.”

“That this Selection Board should be presided over by the Minister responsible for the Civil Service Department and that it always include a representative, either the Minister or the Parliamentary Secretary, of the department concerned.” (pp. 79, 80)

THE CIVIL SERVICE—RECRUITMENT

“That the Civil Service Commissioners should continue to exercise their present functions within the new Civil Service Department; that they should be free to vary their methods in the light of experience and to use their own discretion in deciding the relative importance to be attached to the interview and to the written examination.” (p. 81)

THE CIVIL SERVICE—PAY AND CONDITIONS OF SERVICE

“That the great majority of the vacancies on the administrative establishment should continue to be filled through the medium of a competitive examination held by the Civil Service Commission (or Department). The Commissioners should be guided not only by the candidate’s academic qualifications, but also by his past record and his personality as disclosed in a *viva voce* examination.”

“That a limited but definite number of vacancies on the administrative establishment should be reserved for suitable, pre-selected candidates from the clerical and executive classes and for special entrants at a later age who have begun to make their mark in other professions.”

“That the probationary period for ordinary entrants should be three years and establishment after that period should not be allowed to become a matter of course.”

“That special attention should be given to enable new entrants to gain a wide variety of experience during their probationary period.”

“That the pay of the administrative grade in the Home Civil Service should be reviewed so as to ensure that between the age of thirty and forty the established Civil Servant in this grade shall receive not less than he might expect to earn, if he were to achieve substantial success in some other profession or business. The standard should be that of the exceptional, not of the average man and should not be lower than £1,500 a year.”

“That the size of the establishment of the administrative class should be carefully reviewed so as to ensure that it does not exceed

the number for which posts of real responsibility can be provided at an early age.”

“That careful consideration should be given to the salary scales for expert technical and scientific staffs, in order to bring them into line with those available in competitive industry.”

“That the Foreign Service should be reformed on the lines proposed by the Secretary of State for Foreign Affairs (Cmd. 2420) and a combined Foreign Service should be established, separate and distinct from the Home Civil Service.”

“That the Colonial Office and the India Office should continue to administer the various services for which they are now responsible without the intervention of the Civil Service Department or the Selection Board, all appointments being made by the respective Secretaries of State with the approval of the Prime Minister.”

“That a Civil Servant, any time after he has completed fifteen years’ service, should, if he is considered unsuitable for further promotion, be requested to retire from the Service and should be entitled to a pension proportionate to his length of service, subject to the right of the official to appeal from the Head of his department to the Minister in charge of the Civil Service Department.” (pp. 86-88)

THE WORKING OF THE CONSTITUTION IN RELATION TO

i. DEFENCE AND FOREIGN POLICY

“That a standing sub-committee of the Committee of Imperial Defence should be appointed to consider the measures necessary for securing an adequate national and imperial defence organization.”

“That the sub-committee should be presided over by the Prime Minister, or by the Minister of Defence acting as his deputy, and that it be composed of the appropriate members of the Government, of whom the Foreign Secretary must be one, and of the leaders of the Opposition who should be Privy Councillors.”

“That all the relevant information should be laid before the sub-committee, including regular annual reports from the Chiefs of Staff Committee, and that the Service Chiefs and high officials from the various departments should attend in an advisory capacity.”

“That the sub-committee should produce an annual report on the adequacy of the national and imperial defence organization in the light of the existing international situation; that this report should be published and debated in Parliament; and that in the House of Com-

mons the debate should precede the presentation of the Estimates for the Service departments.”

“That the annual report should be signed by all members of the sub-committee, including the Opposition leaders, unless they definitely disagree with the conclusions contained therein.” (pp. 116, 117)

2. ECONOMIC POLICY

“That a Standing Committee of Ministers from the appropriate departments should be established under the chairmanship of the Chancellor of the Exchequer to supervise the work of economic research, to consider the material prepared by the expert bodies under its control, and to present regular reports to the Cabinet on the state of industry, trade and agriculture, on the working of the financial system and on the international implications of economic policy. That regular reports should also be presented to Parliament.”

“That the existing organizations of the Economic Department and Statistical Section of the Cabinet Secretariat should be put at the disposal of the new Committee, and that sub-committees should be appointed for the investigation of particular problems.”

“That representatives of industry, commerce, banking and organized labour should be associated with officials from the departments concerned in the work of these sub-committees, and that outside experts should be invited to co-operate in the preparation of their reports.” (p. 126)



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